S
328.3
L12vvi
1998
Montana.
Legislative
Services Division
A view of
veterans' issues

A View of Veterans' Issues

A Report to the 56th Legislature
by the
Joint Interim Subcommittee on Veterans' Needs

STATE DOCUMENTS COLLECTION
DEC 16 1998
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

November 1998

Montana Legislative Services Division
State Capitol, Room 138
Helena, Montana 59620

Legislative Services Division

PLEASE RETURN

(406) 444-3064
FAX: (406) 444-3036
INTERNET (Home Page): <http://www.mt.gov/leg/branch/branch.htm>

MONTANA STATE LIBRARY
3 0864 0014 0269 5

Joint Interim Subcommittee on Veterans' Needs
1997-98

Membership

Sen. Don Hargrove, Chairman
(R-Belgrade)

Sen. Eve Franklin
(D-Great Falls)

Sen. Dale Mahlum
(R-Missoula)

Sen. Barry "Spook" Stang
(D-St. Regis)

Rep. John Johnson, Vice Chairman
(D-Glendive)

Rep. Roger DeBruycker
(R-Floweree)

Rep. Harriet Hayne
(R-Dupuyer)

Rep. Dorothy Simpson
(D-Florence)

Subcommittee staff

Sheri S. Heffelfinger, Research Analyst
Eddye McClure, Staff Attorney
Jo Ann Jones, Secretary

Published by

Montana Legislative Services Division
Robert B. Person, Executive Director
David D. Bohyer, Director, Office of Research and Policy Analysis
Gregory J. Petesch, Director, Legal Services Office

CHAPTER NO. 14

[HB 19]

AN ACT ESTABLISHING THE COMMITTEE ON VETERANS' NEEDS; APPROPRIATING FUNDS FOR THE COMMITTEE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, the Joint Interim Subcommittee on Veterans' Needs created by the 1993 and the 1995 Legislatures provided an important liaison between state government, veterans' service organizations, and veterans; and

WHEREAS, the 1995 Joint Interim Subcommittee on Veterans' Needs determined that the continuation of a study Committee would be of great service to Montana veterans.

Be it enacted by the Legislature of the State of Montana:

Section 1. Committee on veterans' needs. (1) There is a committee on veterans' needs. The committee is composed of eight members who are appointed as follows:

(a) four members of the house of representatives, not more than two of whom may be from one political party, appointed by the speaker of the house; and

(b) four members of the senate, not more than two of whom may be from one political party, appointed by the committee on committees.

(2) In case of a vacancy, a replacement must be selected in the manner of the original appointment.

(3) Members are entitled to salary and expenses as provided in 5-2-302.

(4) The committee may request staff assistance from the legislative services division, which assistance may be provided within the limits established by the legislative services division, given other priorities and responsibilities.

(5) Each state agency that provides services or funding for a program or services for veterans shall provide assistance and information upon request of the committee.

Section 2. Duties of committee. The committee on veterans' needs shall:

(1) provide a forum for the study of issues related to veterans' needs;

(2) continue to follow up on the issues identified by the 1993 and 1995 joint interim subcommittees on veterans' needs, as needed;

(3) continue to review the continuum of veterans' services available throughout the state and the effects of federal changes and reform efforts;

(4) study the role of and potential for additional federally funded veterans' programs in Montana; and

(5) report its findings, conclusions, and recommendations to the 56th legislature.

Section 3. Appropriation. There is appropriated $10,000 from cigarette tax state special revenue to the legislative services division for the support of the committee on veterans' needs for the biennium ending June 30, 1999.

Section 4. Effective date. [This act] is effective July 1, 1997.

Section 5. Termination. [This act] terminates June 30, 1999.

Approved February 11, 1997

EXECUTIVE SUMMARY

The 1997 Legislature enacted House Bill No. 19 establishing the Joint Interim Subcommittee on Veterans' Needs (Subcommittee). The bill directed the Subcommittee to examine veterans' issues and report its findings, conclusions, and recommendations to the 56th Legislature.

Funded by a $10,000 appropriation from cigarette tax revenue, the Subcommittee met three times and spent about $7,000. Meetings were held at Fort Harrison in Helena, the Montana Veterans' Home (MVH) in Columbia Falls, and the Capitol.

The following provides an executive summary of the Subcommittee's recommendations and findings. The body of the report provides more detailed summaries of each issue, testimony received, and Subcommittee discussion and action. Appendix A provides copies of Subcommittee bill drafts. Appendix B includes copies of Subcommittee letters. Subsequent appendices provide supplementary information.

Final recommendations and positions

The Joint Interim Subcommittee on Veterans' Needs forwards to the 56th Legislature the following recommendations and findings, which are not listed in any particular order:

Issue #1: Public employer hiring preference for veterans

Current statutory language requiring public employers to award additional points for a job applicant's veteran status allows some public employers to avoid using the preference. To address the loopholes, the Subcommittee recommends that the Legislature enact LC 0070. The bill will tighten the current statutory language and help ensure that public employers apply a veterans' preference factor in the initial hiring process.

Issue #2: Clarification of veterans' burial laws

Current statutory language assigning the cost of raising a veteran's headstone and deferring burial expenses has resulted in misinterpretations about what amount of money must be paid and by whom. To address this, the Subcommittee recommends that the Legislature enact LC 0072. The bill will clarify current law and intent to ensure that an appropriate amount of money is paid by the appropriate entity.

Issue #3: Special license plates

The Legislature should enact LC 0071 to provide special license plates for Montana National Guard veterans or their surviving spouses and for Legion of Valor members or their surviving spouses.

Issue #4: Conservation licenses for Legion of Valor members to fish

The Legislature should enact LC 0073 to provide that Legion of Valor members may fish in Montana with only a wildlife conservation license. The license costs $4 for residents and $5 for nonresidents.

Issue #5: Permanent veterans' needs committee

The Legislature should enact LC 0069 to establish a permanent statutory Committee on Veterans' Needs. If the Legislative Council's interim restructuring proposal is introduced, veterans' needs should be expressly recognized and assigned to the interim state administration committee. (A letter from the Subcommittee was sent to the Legislative Council's Subcommittee on Legislative Improvement. See Appendix B.)

Issue #6: National Guard education benefit program and university discretionary tuition waiver

The discretionary tuition waiver enacted by the 1997 Legislature for National Guard members should not be repealed. Although no state higher education

institution has yet funded the waiver, the program has not had an adequate opportunity to succeed and is an important National Guard recruitment tool.

Issue #7: Disposition of cigarette tax revenue

The Subcommittee opposes any attempt to de-earmark the 11.11% of the cigarette tax revenue now statutorily allocated to the Department of Public Health and Human Services (DPHHS) for the operation and maintenance of state veterans' nursing homes.

Issue #8: Oversight of veterans' services

The Legislature should approve the long-range building program requests and budget proposals for improvements to the state veterans' nursing homes in Columbia Falls and Glendive.

Issue #9: World War II veterans' memorial

The Legislature should approve the Montana Veterans' Affairs Division budget proposal that Montana contribute $66,000--$1 for every World War II (WW II) veteran from Montana--to help fund a $100 million WW II veterans' memorial in Washington, D.C.

Issue #1
Public Employer Hiring Preference for Veterans

Recommendation: Current statutory language requiring public employers to award points for a job applicant's veteran status allows some public employers to avoid using the preference. To address the loopholes, the Subcommittee recommends that the Legislature enact LC 0070. The bill will help ensure that public employers apply a veterans' preference factor in the initial hiring process.

Issue summary

Veterans' preference issues involve how public employers treat veterans who apply for jobs. Montana law enacted in 1989 requires public employers using a scored procedure in the initial hiring process to add points to an applicant's score if the applicant is a veteran. An employer is not required to apply the points if the applicant fails to score at least 70%. According to testimony received, some public employers avoid the preference law by not using a scored procedure or by using a scoring method that virtually ensures that the applicant will not attain at least a 70% score.

During the 1997 legislative session, Representative Chris Ahner (R-Helena) introduced House Bill No. 410 to close the veterans' preference law loopholes. The Montana Women's Lobby, a statewide coalition, opposed the bill because it applied the preference to promotions. Amendments were offered to apply the preference only to initial hiring.

However, as other unrelated preference issues became contentious, a primary supporter of HB 410, Representative Bob Pavlovich (D-Butte), requested that the bill be tabled to avoid the possibly that the bill would be

amended to repeal the entire law. Consequently, the Committee on House Business and Labor tabled the bill.*

Staff Attorney Eddye McClure provided the Subcommittee with a background paper on veterans' preference laws, which is provided at Appendix C.

The Subcommittee initially chose not to identify veterans' preference as a study topic.[1] Nevertheless, at the Subcommittee's second meeting, testimony provided during public comment raised the need to tighten veterans' preference laws, and the Subcommittee took up the issue during its final meeting on August 18, 1998.

Summary of testimony

The following is an abbreviated summary of testimony received on veterans' preference issues.

March 23, 1998

Mr. Charles Miller, legislative coordinator for the Vietnam Veterans of America, during public comment, requested that the Subcommittee add veterans' preference to its agenda for the next meeting. Mr. Miller testified that Montana State University(MSU)-Bozeman uses a "check, plus, minus" procedure to evaluate job applications and maintains that this procedure does not constitute a "scored procedure". Ms. McClure explained that the scored procedure is defined in statute as a numerical scoring process. Mr. Miller further testified that MSU-Bozeman does not apply the veterans' preference law when hiring for its 1,100 classified positions.

Mr. Ed Croucher, superintendent at the Eastern Montana Veterans' Home (EMVH) in Glendive, stated that to deny veterans who have been called to duty and forced to leave job opportunities a preference for hiring when they

* This information was provided by interested persons who observed the activities of the session. Staff has not researched session standing committee minutes.

come back is wrong. He urged the Subcommittee not to hide behind fears of "waking up the sleeping giant". State agencies, he said, should not be allowed to avoid the law when the Legislature's intent was to provide a preference.

Mr. Jim Jacobsen, administrator of the Montana Veterans' Affairs Division, Montana Department of Military Affairs (DMA), agreed that the veterans' preference law is toothless. However, he reminded the Subcommittee of the 1997 legislative battles on preference and stated that it would be worse if the veterans' preference statute was lost entirely.[2]

August 18, 1998

Mr. Miller again summarized the issue of public employers, particularly MSU-Bozeman, circumventing the intent of the veterans' preference law by not using a numerically scored procedure.

Mr. Jacobsen favored tightening the veterans' preferance law. However, Mr. Jacobsen pointed out that two groups would likely be vehemently opposed to a stronger law--the University System and the Montana Women's Lobby. Each had opposed HB 410 in the 1997 legislative session.

Mr. Croucher said that the veterans now returning from rotations of active duty are encountering a different working environment and should be afforded the same opportunity as past veterans, which they are not getting when employers avoid the preference law.

Mr. Hal Manson, representing the American Legion, said that Montana had a strong preference law for many years. However, in 1983, the Supreme Court reversed the law based on an action taken by a disabled person. The 1989 Legislature enacted the current law but provided no enforcement provisions. Mr. Manson said that the American Legion supported HB 410 and urged the Subcommittee to support a similar bill in the upcoming session.

Mr. Larry Longfellow, representing the Veterans of Foreign Wars, Mr. Len Johnson, representing the Marine Corps League, and Mr. Dick Baumburger, a veteran, each urged the Subcommittee to introduce veterans' preference legislation to tighten the current law.

Ms. Polly Latray-Holmes, director of the federal Veterans' Employee Training program in Montana, provided the Subcommittee with the following information:

- Montana's current law allows public employers to avoid veterans' preference in two ways:
  - by making the initial hiring test too hard so that no applicant can attain the minimum of a 70% score, which exempts the employer from having to apply preference points; and
  - by using a plus-check-minus scoring procedure rather than a numerically scored procedure, which also exempts the employer from having to apply preference points.
- The changes made by HB 410 would have closed the loopholes. Also, the amendments proposed in the Business and Labor Committee addressed the concerns of the Montana Women's Lobby.
- Based on a survey of state agencies, 50% of state agencies apply veterans' preference points, while the other 50% do not.
- Some states have much stronger veterans' preference laws than Montana's law; some states have weaker laws.

Subcommittee discussion and action

Representative Dorothy Simpson (D-Florence) moved that the Subcommittee request and introduce a bill based on HB 410, including the amendments offered. The motion passed.[3]

Issue #2
Clarification of Veterans' Burial Laws

Recommendation: Current statutory language assigning the cost of raising a veteran's headstone and deferring burial expenses has resulted in disagreements over how much should be paid and by whom. To address this, the Subcommittee recommends that the Legislature enact LC 0072. The bill will clarify current law and intent to ensure that an appropriate amount of money is paid by the appropriate county.

Issue summary

Current statutory language has created confusion about the following: (1) what amount of money a county is required to pay as its share of the cost for shipping and raising a veteran's headstone; (2) which county is the county of residence when a veteran dies in a public or private residential care facility and, therefore, is responsible for burial costs; and (3) whether current law governing veterans' burial covers other forms of interment.

Headstone costs: Federal law entitles a veteran to a free Veterans Administration (VA) headstone, but leaves the family responsible for the costs of shipping and raising the headstone. To assist the families, state law provides that the veteran's county of residence must pay up to $70 for the cost of shipping and raising the headstone and that, after the county pays the first $30 of the costs, the state will pay up to $40 of that cost. However, section 10-2-501(11), MCA, states that the "county treasurer may withhold an amount of the county total monthly remittance to the state treasure equal to the actual cost paid, up to $40, for the shipping and raising of each headstone". This language has been misinterpreted by some counties to mean that the county is not required to pay the first $30 of actual costs.

County of residence issue: Section 10-2-501(4), MCA, specifies that when a veteran dies, the veteran's county of residence must pay up to $250 to defer the veteran's burial expenses. Sometimes, a veteran in a public or private nursing home dies and it is unclear which county is the veteran's county of residence--the county where the veteran died or the county in which the veteran was a resident before entering the residential care facility? Although other statutes govern how residency is to be determined, some counties are misinterpreting the law and not paying their appropriate share of the burial costs.

Application of burial laws to all forms of interment: Only the term "burial" is used in the laws specifying that counties must pay up to $250 to defer expenses. Thus, some counties have interpreted this to mean that the $250 expense must be paid only if the veteran is buried.

Summary of testimony

Mr. Jacobsen testified about the importance of resolving the veterans' burial issues. The following summarizes the information provided by Mr. Jacobsen either in testimony or in discussions with staff:

Headstone costs

- Approximately 1,200 Montana veterans die each year, and each is entitled to a free VA headstone.

- Counties incur costs only when the VA headstone is placed at the grave site. Until 1995, a county did not have to pay more than $30. The 1995 Legislature enacted House Bill No. 20 to raise the limit on county costs to $70 and to provide that the state must pay up to $40 of costs incurred above the first $30. (See section 10-2-501, MCA.)

- The law is confusing, but most counties appropriately interpret the law. However, a few do not.[4]

County of residence responsible for burial expenses

- Some counties are confused about how to determine a veteran's county of residence (and thus which county is responsible for paying burial costs) for a veteran who dies in a federal or private nursing home in a county other than the county of the veteran's former residence. For example, when a veteran died at the VA nursing home in Miles City, Custer County would either have to pay burial expenses or get involved in a dispute with the veteran's former county of residence over who should pay the costs. Mr. Jacobsen said that he has had to referee these disputes.

Application of laws to all forms of interment

- Most counties pay the $250 burial expense even in cases in which the veteran is cremated. However, some counties do not, maintaining that the statute requiring the county to make the payments applies only in cases in which the veteran is actually buried.

Subcommittee discussion and action

Senator Barry "Spook" Stang (D-St. Regis) asked whether anyone had ever suggested that the state pick up the full cost of raising headstones and interment. Mr. Jacobsen answered not to his knowledge.

Senator Stang moved that the Subcommittee introduce legislation to clarify the veterans' burial laws, substituting the term "interment" for "burial", defining "residence" for determining payment responsibilities, and clarifying that counties are responsible for paying the first $30 of costs for shipping and raising a veteran's headstone. The motion carried unanimously.[5]

Issue #3
Special License Plates

Recommendation: The Legislature should enact LC 0071 to provide special license plates for Montana National Guard veterans or their surviving spouses and for Legion of Valor members or their surviving spouses.

Issue summary

Special license plates issues were considered as two separate proposals: (1) as a request forwarded by the Montana National Guard Officers and Enlisted Associations for National Guard veteran plates; and (2) as a request forwarded by Representative Pavlovich to provide special license plates for Montana's five Legion of Valor members.

Under current law, special license plates related to military service are available for active National Guard members, former prisoners of war, disabled veterans, reservists, survivors of the Pearl Harbor attack, veterans of the armed services (with a decal representing the veterans' particular branch of service), and recipients of the Purple Heart medal. In most cases, surviving spouses are also eligible for the plates. (See section 61-3-332, MCA.)

National Guard veteran license plates

Current law provides special license plates for active National Guard members. The plates display an "NG" decal and are available at no cost.

Special license plates are also available to veterans. The plates display the word "VETERAN" along with a decal of the veteran's branch of service. The veteran plates cost $10.*

However, retired National Guard members are no longer eligible for the "NG" plate for active members and may not necessarily be eligible for the "VETERAN" plate.

The Montana National Guard Officers and Enlisted Associations requested that the Subcommittee support legislation to provide for National Guard veteran plates, which would be the same plate as the "VETERAN" plate, except with an "NG" decal.

Legion of Valor license plates

The Legion of Valor is an organization incorporated by an act of Congress for recipients of the nation's two highest decorations for valor--the Congressional Medal of Honor and the three Crosses. The three Crosses include the Distinguished Service Cross, the Navy Cross, and the Air Force Cross. Recipients of these decorations may join the Legion of Valor by paying membership fees. The Medal of Honor is awarded for conspicuous gallantry and intrepidity at risk of life above and beyond the call of duty. The Crosses are awarded for extraordinary heroism. The Legion of Valor has a nationwide membership of approximately 800. Five members live in Montana.[6]

Summary of testimony

National Guard veteran plates: Mr. Roger Hagan, representing the Montana National Guard Officers and Enlisted Associations, asked the Subcommittee to sponsor legislation providing for National Guard veteran plates. In his

* The first time that the plate is issued, the county keeps $3, the state general fund gets $1, and the remaining $6 is deposited in a fund for the state veterans' cemeteries. Each year thereafter, the full $10 is remitted to the state veterans' cemeteries fund. (See section 10-2-603, MCA.)

written testimony, Mr. Hagan stated that the plates "would provide an additional source of funding for our very important cemeteries while providing our guard members an opportunity to proudly display their current or former membership in Montana's organized militia".[7]

Legion of Valor plates: Representative Pavlovich asked the Subcommittee to recognize Legion of Valor members by requesting legislation providing Legion of Valor special license plates.[8*]

Agency testimony: Mr. Dean Roberts, administrator of the Motor Vehicle Division of the Montana Department of Justice, testified that the Division's computer system is very old and that a new special plate would require that 32 additional programs be written. He added that the Division does not have the staff to maintain the current system. Therefore, he said, to do the work, the Division would hire a consultant, which would cost an estimated $18,570. He said the Division wanted to support veterans and would seek ways to lower the fiscal impact.[9]

Fiscal notes

National Guard veteran plates: A draft fiscal note prepared by the Department of Justice Motor Vehicle Division assumed that about 800 people would be eligible to receive the plates, that about 100 would apply in the first year, and that there would be about 15 new applicants and 100 renewals each subsequent year. The estimated consulting costs were a one-time cost of about $18,570. Anticipated revenue for the cemeteries would be about $600 in FY 2000 and $1,090 in FY 2001. State general fund revenue would amount to about $100 in FY 2000 and $15 in FY 2001. The fiscal note also estimated that county general fund revenue would be about $300 in FY 2000 and $45 in FY 2001.[10]

---

* In subsequent discussions with staff, it was learned that the plates would display a decal of the decoration received by the member and that the cost of the plates would be the same as the $10 charged for the veterans' plates, with the revenue allocation also being the same.

Issue #4
Conservation Licenses for Legion of Valor Members to Fish

Recommendation: The Legislature should enact LC 0073 to provide that all Legion of Valor members may fish with only a conservation license. The license costs $4 for residents and $5 for nonresidents.

Issue summary

As summarized under Issue #3, Legion of Valor members consist of recipients of the nation's two highest decorations for valor--the Congressional Medal of Honor and the three Crosses. The three Crosses are the Distinguished Service Cross, the Navy Cross, and the Air Force Cross. Representative Pavlovich requested that free fishing licences be made available to all resident and nonresident Legion of Valor members.

Current law requires that anyone desiring to hunt, fish, or trap in Montana must first purchase a wildlife conservation license. A wildlife conservation license costs $5 for nonresidents and $4 for residents. After purchasing a wildlife conservation license, a person desiring to fish must also purchase a fishing license. (The fishing license may be combined with the conservation license.) A Class A-resident fishing license costs residents an additional $13. A Class B-nonresident fishing license costs nonresidents an additional $45.*

Current law also provides for certain exceptions. Under section 87-2-801, MCA, state residents who are 62 years of age or older may fish and hunt game birds with a conservation license issued by the Department of Fish,

* See sections 87-2-201 and 87-2-202, MCA, governing the purchase of the wildlife conservation licenses and sections 87-2-301 and 87-2-302, MCA, governing fishing licenses.

Issue #5
Permanent Veterans' Needs Committee

Recommendation: The Legislature should enact LC 0069 to establish a permanent statutory Committee on Veterans' Needs. If the Legislative Council's interim restructuring proposal is introduced, veterans' needs should be expressly recognized and assigned to the interim state administration committee. (See the letter on this at Appendix B.)

Issue summary

In 1993, the 53rd Legislature first established the Joint Interim Subcommittee on Veterans' Needs by passing House Joint Resolution No. 27, a substitute for a bill to provide $2 million for a new veterans' nursing home in Deer Lodge or Silver Bow County. Advocates for the nursing home said that the home was needed to service veterans' needs in central and southwestern Montana.*

Also during the 1993 legislative session, a portion of cigarette tax revenue was appropriated for the maintenance and operation of state veterans' nursing home facilities, which included the MVH at Columbia Falls and the new EMVH at Glendive.

To provide oversight of and to examine issues related to veterans' needs, House Joint Resolution No. 27 asked the Joint Interim Subcommittee on Veterans' Needs to study the following: (1) veterans' nursing home and home health care and the role of the VA; (2) access to nursing home and other health care services for veterans in Montana; (3) the continuum of

* The Montana Veterans' Home in Columbia Falls serves northwestern Montana, a federal facility in Miles City serves southeastern Montana, and a new state facility at Glendive serves northeastern Montana.

veterans' services to identify gaps and determine the role of federal programs; and (4) state policy relating to veterans' services provided by the state.

The HJR 27 Subcommittee met five times, received information on a variety of topics, forwarded several recommendations, and spent $4,574. The Subcommittee's final report, *A Report to the Governor and the 54th Legislature*, prepared by Susan B. Fox, Montana Legislative Council, October 1994, summarizes the Subcommittee's activities and recommendations.

The 54th Legislature (1995) reestablished the Joint Interim Subcommittee on Veterans' Needs, again by resolution (House Joint Resolution No. 19). The Legislature viewed the Subcommittee as a means to monitor construction of the new veterans' nursing home in Glendive, address ongoing health care reform issues affecting veterans, and build on the successes of the 1993 interim Subcommittee in providing a forum for veterans' concerns. A $10,000 appropriation from the earmarked cigarette tax revenue funded the HJR 19 Subcommittee.

The HJR 19 Subcommittee met three times and spent just over $7,000. The Subcommittee's final report, *Considering Veterans' Needs*, prepared by Susan B. Fox, Montana Legislative Services Division, October 1996, summarizes the Subcommittee's activities and recommendations.

The 55th Legislature (1997) renewed the Joint Interim Subcommittee on Veterans' Needs for a third time, this time by bill. House Bill No. 19 included an appropriation of $10,000 from cigarette tax revenue to fund the Subcommittee's activities and also directed the study summarized in this report. The 1997 HB 19 interim Subcommittee terminates June 30, 1999. (See Ch. 14, L. 1997.)

Summary of testimony

Public comment: Several regular participants in the Subcommittee's meetings testified that the Subcommittee provided a valuable forum for

veterans' organizations by giving veterans one place to go to bring their issues to the Legislature, rather than to take issues to individual legislators in an unorganized fashion. The testimony also noted the need to have a group of legislators knowledgeable about veterans' services. Proponents of a permanent interim committee for veterans' needs included representatives of the Veterans' Affairs Division, the Senior and Long-Term Care Division, the DPHHS, the Montana veterans' nursing homes, and several veteran organizations, including the Veterans of Foreign Wars, the Disabled Veterans of America, the Vietnam Veterans of America, and the American Legion.[20]

Interim restructuring proposal: Ms. Leanne Kurtz, research analyst, Legislative Services Division, presented an overview of a proposal to restructure interim committees. The Legislative Council is considering the restructuring as a means of providing for a more effective and efficient use of resources during the interim. The restructuring proposal would create six permanent interim committees. The Legislative Finance Committee, the Legislative Audit Committee, and the Environmental Quality Council would remain essentially unchanged. Each of the six interim committee would have broad jurisdiction in certain topic areas, including oversight of agency rulemaking. The Legislative Council would allocate the study resolutions passed each session among the six permanent interim committees, and each committee would then receive a classification based on its assigned workload. The classification would reflect the interim committee's required level of activity and budget allocation. Staff support would be provided to no more than two subcommittees of an interim committee.[21]

Subcommittee discussion and action

Senator Stang commented that the proposed interim committee restructuring could result in the interim committees having so many issues that indepth study of one issue would be impossible.

Senator Hargrove commented that the functions of the committees as they now exist would continue, which would mean more issues for fewer but larger committees. He said that larger committees may tend to be more

inefficient because the committee would spend more time on an issue that could otherwise be more efficiently handled by a smaller committee.

Senator Stang noted that if each of the 6 proposed interim committees created 2 subcommittees, there would still be 12 subcommittees and some studies would not be funded. Senator Stang also commented that the proposal had some good points. He urged the Subcommittee to move forward with a bill to make the veterans' needs committee permanent so that the Legislative Council would know how serious the Subcommittee is about at least making veterans' needs an integral part of one of the committees proposed under the restructuring.

Senator Stang moved that the Subcommittee sponsor a bill to establish the Committee on Veterans' Needs as a permanent statutory interim committee. The motion carried unanimously.

Representative Simpson and Senator Mahlum stated that the Subcommittee needed to make a definite statement that it considers veterans a special portion of the citizens of Montana and that the Subcommittee wants veterans' interests specifically represented. The Subcommittee agreed to have staff prepare and send a letter to the Legislative Council's Subcommittee on Legislative Improvement to express the Subcommittee's desire to see veterans' needs expressly acknowledged and assigned to the proposed interim committee on state administration rather than to a health or welfare committee. (See the letter at Appendix B.)

Subcommittee members also agreed that $10,000 from cigarette tax revenue was an appropriate funding source for the permanent Committee on Veterans' Needs.[22]

Issue #6
National Guard Education Benefit Program and University Discretionary Tuition Waiver

Recommendation: The discretionary tuition waiver program established by the 1997 Legislature for Montana National Guard members should not be repealed. The program has not had an adequate opportunity to work, is important as a National Guard recruitment incentive, and should remain in statute so that each university can determine whether it will provide the waiver.

Issue summary

The 1995 Joint Interim Subcommittee on Veterans' Needs requested House Bill No. 17 to provide a scholarship program for members of the Montana National Guard as a recruitment incentive. Introduced by Representative Pavlovich, the bill appropriated a total of $1,140,000 from the state general fund to the DMA to administer the scholarship program.

The House Appropriations Committee amended the bill by removing the appropriation and changing the scholarship program to an "education benefit program". The program provided that the DMA would set certain criteria (according to the statutory provisions), select qualified Guard members, and recommend that they receive a tuition waiver. The bill also authorized the Board of Regents to provide the waiver, but only if funding was available.

House Bill No. 17 was amended several more times, with a free conference committee working out the final language. Ultimately, HB 17 was passed and approved and provided for the following new statutory language among provisions governing other Board of Regents' discretionary fee waivers:

> If funds are available after the waivers provided for in subsection (2) [which lists other discretionary tuition and fee

waivers], the regents may waive tuition for up to 5,000 credits each academic year in accordance with the national guard education benefit program provided for in 10-1-121.[23]

In unrelated action, the Legislature also passed a bill extending the life of the Joint Committee on Postsecondary Education Policy and Budget (Ch. 225, L. 1997).

Staffed by the Legislative Fiscal Division and extended until July 1, 2005, the Postsecondary Education Committee consists of eight legislators and provides budget and planning information to the Board of Regents, reviews and assesses the effectiveness of the University System in meeting goals and long-range plans, and studies University System funding and accounting.[24]

This interim, the Postsecondary Education Committee reviewed the University System's discretionary tuition and fee waivers. Among the waivers examined was the waiver for the National Guard education benefit program.[25]*

At its March 1998 meeting, the Postsecondary Education Committee voted unanimously to introduce legislation repealing the discretionary tuition waiver for members of the National Guard.[26]

Summary of testimony

Montana National Guard strength, recruitment, and retention issues

At the March 23, 1998, Subcommittee meeting, representatives from the DMA briefed Subcommittee members on National Guard personnel strength levels and recruitment and retention issues.

* A staff report on University System fiscal issues is available through the Legislative Fiscal Division.

Retired Brigadier General Gary Hindoien, Montana Air National Guard (ANG), reported that the personnel strength of the ANG looked healthy, but certain career specialty positions were difficult to keep filled with trained personnel. General Hindoien provided written testimony showing personnel strength levels ranging from a low of 88.9% to a high of 96.5%. However, General Hindoien explained that he expected that the ANG would experience declining personnel levels due not only to lengthy training schools but also to the increasing frequency and length of federal activations. General Hindoien requested that the Subcommittee promote funding for recruitment and maintenance of ANG participation because, currently, Montana provides no state benefits for National Guard participants.[27]

Colonel Jim Dwyer, Deputy Chief of Staff for Personnel, Montana Army National Guard (ARNG), reported that for the ARNG to become a force structure priority for federal funding and training, it must recruit an additional 300 members in the next 2 years. He said that the only recruitment incentives available are the federally provided programs and that state incentives, such as a tuition fee waiver, would enhance the Guard's recruitment efforts. Colonel Dwyer also explained that the educational institutions view the tuition waiver as a loss of revenue and that the final provisions in HB 17 placed the education benefit program at the end of the tuition waiver food chain. Responding to Subcommittee questions, Colonel Dwyer noted that if Montana's National Guard units are taken away by the National Guard Bureau, the State of Montana will be the loser. He explained that fewer National Guard members will mean fewer personnel to respond to a state emergency.[28]

Major Joseph Foster, recruiting and retention manager, ARNG, testified that the education benefit program has not been used, that no funds have been made available by a higher education institution for the program, and that the Office of the Commissioner of Higher Education has never supported the program. Major Foster reported that the ARNG is at 77% of its authorized strength, the same as 1 year ago, that recruits are being lost to states that do provide some type of state incentive program, and that it was imperative for Montana to demonstrate the ability to fill its units; otherwise, the National

Guard Bureau will reduce Montana's authorized strength levels. Major Foster presented written testimony showing the success of New York's educational scholarship program and information about recent unit deactivations in Montana, force structure changes, and recruiting data. The data showed that Montana's recruiting efficiency rating is high. Major Foster noted that the issue is not that Montana recruiters are not doing their jobs*

In response to questions, Major Foster indicated that the DMA would prefer to have a funded educational scholarship program rather than rely on a discretionary fee waiver by the Board of Regents.[29]

Actions of the Joint Committee on Postsecondary Education Policy and Budget: At the August 18, 1998, meeting of the Subcommittee, Mr. Hagan informed the Subcommittee of the Postsecondary Education Committee's vote to introduce legislation repealing the discretionary tuition waiver. Mr. Hagan asked the Subcommittee to ask the postsecondary education committee to reconsider its actions. Mr. Hagan provided a copy of testimony that he had presented to the Postsecondary Education Committee and stated that the National Guard Associations did not believe that the tuition waiver had been given adequate opportunity to work. He reminded the Subcommittee that the waiver had added no cost to the Board of Regents' budget.

Mr. John Nugent, educational program coordinator, DMA, reported that the National Guard had been working diligently over the years to provide its student soldiers with the opportunity to underwrite their educational

* In a subsequent discussion with staff, Major Foster explained that the Montana ARNG needs to fill 2,900 positions in the next 2 years in order to get new units to replace deactivated or reorganized units. About 2,600 positions have been filled so far. Major Foster also pointed out that deactivation and force structure changes have resulted in a need to "back fill" units (i.e., replace positions resulting from lost or reorganized units) in Havre, Libby, Billings, Kalispell, and Butte. Also, armories in Whitefish and Shelby have been shut down. If positions are not filled within the next 2 years, Montana may not get replacement units to back fill the losses. Major Foster also explained that some Guard units are not eligible for federal recruitment incentives because of unit type and force priority.

experiences. He stated that Montana will be among the bottom 5% of states in the nation that do not have some form of state tuition assistance for its service members.* Mr. Nugent encouraged the Subcommittee to support the DMA's process of trying to ensure the security of the HB 17 education benefit program and discretionary fee waiver.[30]

Subcommittee discussion and action

Subcommittee discussion following the DMA presentations at the March meeting centered on the need for the National Guard to provide research showing the specific consequences of Montana not funding an educational benefit program and emphasized that before Subcommittee members could support additional funding for a scholarship program, the Guard needed to make the program a priority within its own budget process.**

Senator Stang said that he would support the scholarship program if the DMA made it a priority but would not support the funding for it being taken out of the University System budget. Senator Hargrove stated that it was the DMA's responsibility to prove that the single best recruiting and retention incentive for the National Guard was educational scholarships.[31]

Noting that the process involved in the Legislature's passage of HB 17 was hard fought and fair, Senator Stang moved that staff write a letter to the Postsecondary Education Committee to express the Subcommittee's objection to repealing the discretionary tuition waiver for National Guard members. The motion carried unanimously.[32] (See the letter at Appendix B.)

*Information provided by Mr. Hagan and Mr. Nugent to Subcommittee staff indicates that 41 states have enacted some form of tuition assistance program for state National Guard members as a recruitment incentive. Idaho and Wyoming have each had some type of program, but currently do not provide funding. South Dakota's program provides up to 50% tuition assistance in combination with all other available assistance. North Dakota's program provides up to 100% tuition assistance in combination with all other available assistance.

** According to Mr. Hagan and Major Foster, the DMA is currently engaged in collecting more specific data and in seeking the Governor's support for a funded education benefit program as a National Guard recruitment incentive.

Issue #7
Disposition of Cigarette Tax Revenue

The Subcommittee opposes any attempt to de-earmark the 11.11% of the cigarette tax revenue now statutorily allocated for the operation and maintenance of state veterans' nursing homes.

Issue summary

Current law: Under current law, an individual purchasing cigarettes pays an 18-cent state excise tax for each package of 20 cigarettes. (See section 16-11-111, MCA.) Of that 18 cents, 11.11% (about 2.4 cents) is earmarked for the operation and maintenance of state veterans' nursing homes; 73.04% is deposited in the state general fund; and 15.85% is used for the long-range building program. (See section 16-11-119, MCA.) According to data from the Legislative Fiscal Analyst Revenue Estimate System, in FY 1998, the total revenue from the cigarette tax was $13.2 million, with $1.45 million allocated to the earmarked fund for state veterans' nursing homes.

Historical allocation of cigarette tax revenue: Montana first imposed a cigarette excise tax in 1947. The initial tax rate was 2 cents per pack of 20 cigarettes and was deposited in the state general fund (Ch. 289, L. 1947).

In 1951, through Initiative No. 54, the Montana electorate approved the sale of limited obligation bonds to pay an honorarium to World War II veterans and surviving spouses. The initiative earmarked revenue from the 2-cent cigarette tax to pay the bond obligations.

In 1957, the Legislature extended the honorarium payments to Korean War veterans and surviving spouses, authorized additional limited obligation bonds, and raised the cigarette tax by 1 cent (Ch. 44, L. 1957).

In 1963, the honorarium was again extended, this time to veterans of World War I and their surviving spouses; once again, limited obligation bonds were authorized. The cigarette tax was increased another 2 cents, which was dedicated to pay the bond obligations (Ch. 270, L. 1963).

The Legislature created a long-range building program in 1967 and funded it with the portion of the cigarette tax revenue remaining after bond obligations were paid (Ch. 318, L. 1967). The veterans' honorarium bonds were fully paid off by 1981, and the entire tax, by then 12 cents, was deposited in funds within the long-range building program (Ch. 267, L. 1981).

The cigarette tax rate continued to be increased. The latest increase was made in 1989, when the tax was raised from 16 cents to 18 cents per pack, with a portion of the increase used to fund a study of locations for and to build a new state veterans' nursing home (Ch. 681, L. 1989).

In 1993, the Legislature passed House Bill No. 46, sponsored by Representative John Johnson (D-Glendive), earmarking 11.11% of the cigarette tax revenue for the operation and maintenance of the state veterans' nursing homes (Ch. 548, L. 1993).

Summary of testimony

Mr. Mike Hanshew, administrator, Senior and Long-Term Care Division, DPHHS, testified at the Subcommittee's August meeting that the Legislative Finance Committee was considering de-earmarking the 11.11% allocation of the cigarette tax earmarked for the state veterans' nursing homes. Mr. Hanshew provided a graph showing the fund's income and expenditures since FY 1994 and explained that the DPHHS considered the cigarette tax revenue to be a reliable and stable source of funding for the veterans' homes. He requested that the Subcommittee oppose any move to de-earmark the fund.[33]

Subcommittee discussion and action

The Subcommittee directed staff to write a letter to the Governor and the Legislative Finance Committee expressing opposition to de-earmarking the fund and pointing out that the original purpose of the tax, as well as the intent of the electorate, was that the tax be a funding source for Montana's veterans.[34]

Before the letter was drafted, the subcommittee of the Legislative Finance Committee (LFC) decided not to move forward with the de-earmarking proposal. Veterans' Needs Subcommittee Chairman Senator Hargrove decided to send a letter to the LFC stating that the Veterans' Needs Subcommittee was gratified by the decision. (See the letter at Appendix B.)

Issue #8
Oversight of Veterans' Services

Recommendation: The Legislature should approve the long-range building program and budget requests for improvements to the state veterans' nursing homes.

Issue summary

House Bill No. 19 (Ch. 14, L. 1997) established the Joint Interim Subcommittee on Veterans' Needs and charged it to "continue to review the continuum of veterans' services available throughout the state and the effects of federal changes and reform efforts" and to "study the role of and potential for additional federally funded veterans' programs in Montana".

Veteran population

Approximately 92,300 veterans and 138,000 veteran family members live in Montana. About 32,700 of Montana's veterans are over 65 years of age, and about 10,100 of Montana's veterans are disabled.[35]

Federal facilities

Federal medical facilities in Montana consist of:

- the Veterans Administration Medical and Regional Office Center at Ft. Harrison in Helena;
- a VA Veterans Center and Outpatient Clinic in both Missoula and Billings; and
- outpatient clinics in Whitefish, Great Falls, Anaconda, and Miles City.

State coordination of services

The Montana Veterans' Affairs Division under the Governor-appointed Board of Veterans' Affairs and attached to the DMA coordinates benefits and services for Montana's veterans. The Division is headquartered in Helena, includes 19.3 FTEs, and has 9 offices statewide. The two state veterans' cemeteries, which include the Montana State Veterans' Cemetery at Ft. Harrison in Helena and the Eastern Montana State Veterans' Cemetery in Miles City, also fall under the auspices of the Division.

State nursing home facilities

Two state nursing homes provide nursing, domiciliary, and special care for Montana's veterans.

The MVH in Columbia Falls under the Senior and Long-Term Care Division, DPHHS, consists of a 40-bed licensed domiciliary for assisted living and a 90-bed licensed skilled nursing home.

The EMVH in Glendive, which is state-owned but privately operated under the Senior and Long-Term Care Division, DPHHS, consists of an 80-bed licensed home for skilled and intermediate nursing care. Ten beds are used as a Special Care Unit for Alzheimer patients and for veterans with other forms of dementia.

Summary of testimony on federal VA programs

Subcommittee members toured the Fort Harrison VA Regional Center and Hospital and the MVH in Columbia Falls. The following summarizes the information received during briefings about and tours of the facilities.

Medical care

Mr. Joe Underkofler, director of the Department of Veterans Affairs (DVA), Medical and Regional Office Center, Fort Harrison, provided the

Subcommittee with an overview of emerging issues affecting medical care and benefits for veterans in Montana.

Additional outpatient clinics: Mr. Underkofler reported that one of the VA's largest projects in Montana during the last 2 years has been establishing Community-Based Outpatient Clinics (CBOCs). He said that his staff is researching establishing two additional CBOCs, one in Havre and another in the Bozeman/Big Timber/Livingston area. New locations must be approved by the Senate and House Veterans Affairs Committees of the U.S. Congress. Mr. Underkofler also reported that the American Legion requested that a clinic be placed in Glasgow. The DVA is, therefore, considering whether to contract for services or establish a CBOC in Glasgow.

Reduction of inpatient services: Recent changes in care delivery have reduced inpatient beds. The Miles City VA facility recently closed its 30-bed hospital unit, and the VA hospital at Fort Harrison has, over the last 4 years, reduced its inpatient beds from 130 to 50. Mr. Underkofler reported that the use of contract services for nursing care and same-day surgical procedures has allowed inpatient beds and services to be reserved for truly ill veterans. The VA hospital at Fort Harrison is using ambulatory care evaluation (ACE) beds as observation beds so that patients may be observed and a determination made about whether the patients need the intensity of care offered by the hospital or less staff-intensive outpatient care. Same-day surgery has reduced the number of hospital stays, but, Mr. Underkofler explained, this created a new problem by having to send a patient hundreds of miles home immediately after a surgery. Therefore, the VA is using ACE beds to observe same-day surgery patients overnight and send them home the next day.

Better diagnostic tools: The VA center has acquired better diagnostic tools, which improve the quality of veteran services. These new tools include a spiral CT scanner (which allows three dimensional pictures and is one of only two in the state), a vascular imaging unit (which means patients no longer have to be sent to Salt Lake City or Denver for the procedure), a mobile magnetic resonant imaging (MRI) unit (which is at the center 3 days a week

and avoids the more than $1 million dollar cost of owning and maintaining an MRI unit), and a mobile mammography unit to improve how female veterans are served at the center.

Construction and renovation: Recent renovations at the hospital include the Surgical Addition and Diagnostic Imaging Expansion project, two new operating rooms, a new dental suite, and a new main lobby.

Other improvements: Other improvements at the hospital include a registered nurse dedicated to coordinating medical-related travel arrangements for veteran patients, the ability to provide advanced laparoscopic surgery and vascular stent placement, a cardiac rehabilitation program, outpatient community-based substance abuse treatment programs at either the VA center or the CBOCs, and inpatient treatment now available at Sheridan, Wyoming, and Grand Junction, Colorado.

Veterans' benefits processing

Mr. Underkofler reported that Montana veterans and their families annually receive about $60 million in federal veterans' benefits. New organizational strategies, such as establishing claims processing teams, instituting better timelines, automating vocational rehabilitation processing, and creating better communication, have improved benefit claims processing.

Future goals

Mr. Underkofler said that his goals were to have new CBOCs in Havre and the Bozeman/Big Timber/Livingston area by the spring of 1998, to expand services at the CBOCs, and to ensure that veterans' benefit claims are processed within 6 weeks of receipt.[36]

Subcommittee discussion on federal VA programs

Subcommittee members questioned the cost-effectiveness of CBOC services but were assured that the services provided through the CBOCs had cut

costs in half. Patients are no longer required to travel to Helena for service and can be seen more often by community-based medical professionals.

Subcommittee members asked questions about how walk-in services and medical records were handled at the CBOCs. Mr. Underkofler explained that patients must initially have scheduled appointments, but as services at a CBOC are expanded so that a full-time physician is available, walk-ins will be served. Medical records are maintained through a computer link between Fort Harrison and the CBOCs.

Other questions were raised about veterans being able to use their own personal physicians. Mr. Underkofler explained that Glasgow may be the first location where that option will be tried.[37]

Summary of testimony on state veterans' nursing home facilities

Changing needs: During its March 23, 1998, meeting, the Subcommittee toured the MVH at Columbia Falls and received a briefing on the history of the state nursing homes and the needs of veterans at both the MVH and the EMVH. The briefing identified that the treatment needs of veterans are changing and that the mission and services provided at the state nursing homes need to change accordingly.

Mr. Patrick Estensen, superintendent of the MVH, provided a written report, which is included at Appendix D. The report provides background on the needs of veterans and the proposals to be forwarded during the 1999 legislative session.

Improvements required: At the Subcommittee's final meeting on August 18, 1998, Mr. Hanshew presented a summary of the Senior and Long-Term Care Division's key legislative issues.

Required improvements to the MVH in Columbia Falls include:

- a new 15-bed Special Care Unit, which will cost an estimated $1.3 million. Federal money would be used to reimburse 65% of the cost, while the 35% state match would be paid with earmarked cigarette tax revenue.

- a budget request for adding 1.6 FTEs direct care staff for the home's domiciliary, which would cost $33,000 annually.

Long-range building improvements required for the EMVH in Glendive include:

- physical plant improvements that include lighting for the parking lot, an expansion of the dining/recreation area, and improvements in the Alzheimer Special Care Unit. These improvements are included in the Governor's long-range building request and would cost an estimated $350,000, which would be funded from earmarked cigarette tax revenue. [38]

Subcommittee discussion and action

The Subcommittee took no specific action on veterans' nursing home issues, but, by consensus, agreed that staff would include in the Subcommittee's final report the Subcommittee's recommendation that the Legislature approve the budget and long-range building requests for improving the veterans' homes.[39]

Issue #9
World War II Veterans' Memorial

Recommendation: The Legislature should approve the Montana Veterans' Affairs Division budget proposal that Montana contribute $66,000 ($1 for each World War II veteran in Montana) to help fund a U.S. memorial for World War II veterans.

Issue summary

The United States has not yet dedicated a national memorial for veterans of WW II. Efforts are under way to raise the $100 million needed to build the memorial, which will be located on the National Capitol Mall between the Lincoln Memorial and the Washington Monument.

Summary of testimony

Mr. Jacobsen provided the Subcommittee with information about the WW II memorial and requested the Subcommittee's support. Mr. Jacobsen explained that $27 million has so far been received from individual donations and that former Senator Bob Dole, chairman of the WW II Memorial Committee, suggested that each state consider contributing $1 for each WW II participant from the state. Sixty-six thousand Montanans served in the military during WW II.

Mr. Jacobsen explained that Montana's 1991 Legislature appropriated from the state general fund $25,000--$5 for every woman veteran from Montana--to help build the National Women in Military Service Memorial at Arlington Cemetery.[40]

Subcommittee discussion and action

Subcommittee members expressed support for the memorial and the proposed funding, which will be included in the House Bill No. 2 budget proposal for the Montana Veterans' Affairs Division.[41]

L55 8306shpa.

ENDNOTES

1. See Joint Interim Subcommittee on Veterans' Needs (JISVN), Minutes, Legislative Services Division (LSD), September 11, 1997, p. 17.
2. Ibid., March 23, 1998, pp. 20-22.
3. Ibid., August 18, 1998, pp. 9-13.
4. Ibid., September 11, 1997, pp. 3-4.
5. Ibid., August 18, 1998, pp. 17-18.
6. The Legion of Valor was first incorporated in 1955 under Public Law 224; the organizational name was amended in 1961 under Public Law 87-56. For more information, see the Legion of Valor Internet home page at http://members.aol.com/lvalor1890.
7. JISVN, Minutes, LSD, September 11, 1997, p. 15 and Exhibit #8, p. 2.
8. Ibid., p.14.
9. Ibid., August 18, 1998, pp. 4-7.
10. Ibid., Exhibit #3.
11. Ibid., Exhibit #12.
12. Ibid., pp. 5 and 16.
13. Ibid., pp. 4-7.
14. Ibid., pp. 16-17.
15. Ibid., September 11, 1997, p. 14.
16. Ibid., March 23, 1998, Exhibit #11.
17. Ibid., August 18, 1998, Exhibit #15.
18. Ibid., pp. 18-19 and Exhibits #14 and #15.
19. Ibid., August 18, 1998, p. 19.
20. Comments related to the value of continuing the Subcommittee and whether it should be renewed are found in the Subcommittee's Minutes as follows: September 11, 1997, p. 15; March 23, 1998, pp. 19-20 and 22; and August 18, 1998, pp. 13-16.
21. JISVN, Minutes, LSD, August 18, 1998, Exhibit #8.

22. Ibid., pp. 13-16.

23. Section 20-25-421, MCA.

24. Chapter 225, Laws of Montana, 1997.

25. Sandy Whitney, "Student Financial Aid", Legislative Fiscal Division, December 2, 1997.

26. Joint Committee on Postsecondary Education Policy and Budget, Minutes, March 2, 1998, pp. 14-15.

27. JISVN, Minutes, LSD, March 23, 1997, p. 12 and Exhibit #4.

28. Ibid., pp. 13-16 and Exhibit #5.

29. Ibid., Exhibit #6.

30. Ibid., August 18, 1998, pp. 3-4.

31. Ibid., March 23, 1998, pp. 13-16.

32. Ibid.

33. Ibid., August 18, 1998, pp. 7-8 and Exhibit #4.

34. Ibid.

35. Montana Veterans' Affairs Division, "Service for those who Served", JISVN, Minutes, LSD, September 11, 1997, Exhibit #2.

36. JISVN, Minutes, LSD, September 11, 1997, pp. 9-14.

37. Ibid.

38. Ibid., August 18, 1998, Exhibit #4.

39. This recommendation was included as an instruction to staff during the August 18, 1998, meeting but is not expressly stated in the summary minutes of that meeting.

40. JISVN, Minutes, LSD, March 23, 1998, pp. 16-17 and Exhibit #7; see also Minutes, LSD, August 18, 1998, p. 8.

41. Although the official record of JISVN meetings does not reflect specific discussion, instructions to staff included a statement of Subcommittee support for the WW II veterans' memorial and the proposed funding.

APPENDIX A

SUBCOMMITTEE BILL DRAFTS

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE COMMITTEE ON VETERANS' NEEDS AS A PERMANENT COMMITTEE; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 16-11-119 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Joint Interim Subcommittee on Veterans' Needs created by the 1993, 1995, and 1997 Legislatures provided an important liaison among state government, veterans' service organizations, and veterans; and

WHEREAS, the 1997 Joint Interim Subcommittee on Veterans' Needs determined that establishment of a permanent Committee on Veterans' Needs would be of great service to Montana veterans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Committee on veterans' needs.** (1) There is a committee on veterans' needs. The committee is composed of eight members who are appointed as follows:

(a) four members of the house of representatives, not more than two of whom may be from one political party, appointed by the speaker of the house; and

(b) four members of the senate, not more than two of whom may be from one political party, appointed by the committee on committees.

(2) In case of a vacancy, a replacement must be selected in the manner of the original appointment.

(3) Members are entitled to salary and expenses as provided in 5-2-302.

(4) The committee may request staff assistance from the legislative services division. The assistance may be provided within the limits established by the legislative services division, given other priorities and responsibilities.

(5) Each state agency that provides services or funding for a program or services for veterans shall

provide assistance and information upon request of the committee.

NEW SECTION. **Section 2. Duties of committee.** The committee on veterans' needs shall:

(1) provide a forum for the study of issues related to veterans' needs;

(2) continue to follow up on the issues identified by the previous joint interim subcommittees on veterans' needs, as needed;

(3) continue to review the continuum of veterans' services available throughout the state and the effects of federal changes and reform efforts;

(4) study the role of and potential for additional federally funded veterans' programs in Montana; and

(5) report its findings, conclusions, and recommendations to each regular session of the legislature.

Section 3. Section 16-11-119, MCA, is amended to read:

"**16-11-119. Disposition of taxes.** Cigarette taxes collected under the provisions of 16-11-111 must be allocated as ~~follows:~~ provided in this section. The first $5,000 collected each fiscal year is statutorily appropriated, as provided in 17-7-502, to the legislative services division for the support of the committee on veterans' needs. The total amount remaining after the statutory appropriation is allocated in the following percentages:

(1) The amount of 11.11% of the cigarette tax collected on each package of cigarettes must be deposited in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes.

(2) The amount of 73.04% must, in accordance with the provisions of 15-1-501, be deposited in the state general fund.

(3) The amount of 15.85% must, in accordance with the provisions of 15-1-501, be deposited in the long-range building program account provided for in 17-7-205."

Section 4. Section 17-7-502, MCA, is amended to read:

"**17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state

agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 16-11-119; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-131; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-161; 85-20-402; 87-1-513; 90-3-301; 90-4-215; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)

17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply

with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; 16-11-119; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 5, and the provisions of Title 5 apply to [sections 1 and 2].

NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 1999.

- END -

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE VETERANS' PUBLIC EMPLOYMENT PREFERENCE LAW; REQUIRING PROOF OF THE USE OF A SUBSTANTIALLY EQUIVALENT SELECTION PROCEDURE TO APPLY VETERANS' PREFERENCE WHENEVER A SCORED PROCEDURE IS NOT USED; REQUIRING A PUBLIC EMPLOYER TO APPLY VETERANS' PREFERENCE WHEN NO APPLICANT MEETS THE MINIMUM QUALIFICATIONS AND THE PUBLIC EMPLOYER FILLS A TRAINING POSITION; AND AMENDING SECTIONS 39-29-102, 39-29-103, AND 39-29-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-29-102, MCA, is amended to read:

"39-29-102. Point preference or alternative preference in initial hiring for certain applicants -- substantially equivalent selection procedure. (1) Subject to the restrictions in subsections (2) and (3), whenever a public employer uses a scored procedure, an applicant for an initial hiring, as defined in 39-30-103, must have added to ~~his~~ the applicant's score the following percentage points of the total possible points that may be granted in the scored procedure:

(a) 5 percentage points if the applicant is a veteran; and

(b) 10 percentage points if the applicant is a disabled veteran or an eligible relative.

(2) A veteran, disabled veteran, or eligible relative may not receive the percentage points provided for in subsection (1) unless the person:

(a) is a United States citizen; and

(b) ~~received 70 or more percentage points of the total possible points that may be granted in the scored procedure~~ meets the minimum qualifications required for the position. If no applicant meets the minimum qualifications and the public employer fills a training position, veterans' preference must be applied.

(3) A disabled veteran who receives 10 percentage points under subsection (1)(b) may not receive an additional 5 percentage points under subsection (1)(a).

(4) Whenever a public employer uses a selection procedure other than a scored procedure, the public employer shall provide proof that the procedure used to apply veterans' preference was substantially equivalent to the scored procedure. As used in this subsection, "substantially equivalent" means a procedure under which an applicant receives from the public employer a weighted preference factor similar to the percentage points provided for in subsection (1)."

Section 2. Section 39-29-103, MCA, is amended to read:

"39-29-103. Notice and claim of preference. (1) A public employer shall, by posting or on the application form, give notice of the ~~point~~ preference provided in 39-29-102.

(2) A job applicant who believes ~~he~~ that the applicant is eligible to receive a ~~point~~ preference shall claim the preference in writing before the time for filing applications for the position involved has passed. Failure to make a timely preference claim for a position is a complete defense to an action instituted by an applicant under 39-29-104 with regard to that position.

(3) If an applicant for a position makes a timely written preference claim, the public employer shall give written notice of its hiring decision to the applicant claiming preference."

Section 3. Section 39-29-104, MCA, is amended to read:

"39-29-104. Enforcement of preference. (1) An applicant who believes ~~he~~ that the applicant is entitled to but has not been given the ~~point~~ preference provided in 39-29-102 may, within 30 days of receipt of the notice of the hiring decision provided for in 39-29-103, submit to the public employer a written request for an explanation of the public employer's hiring decision. Within 15 days of receipt of the request, the public employer shall give the applicant a written explanation.

(2) After following the procedure described in subsection (1), the applicant may, within 90 days after receipt of notice of the hiring decision, file a petition in the district court in the county in which ~~his~~ the application was received by the public employer. The petition must state facts that on their face entitle the applicant to a ~~point~~ preference.

(3) (a) Upon filing of the petition, the court shall order the public employer to appear in court at a specified time not less than 5 or more than 10 days after the day the petition was filed and show cause why the applicant was not hired for the position. At the hearing, the public employer has the burden of proving by a preponderance of the evidence that the public employer applied the ~~points~~ preference under

39-29-102 and made a reasonable hiring decision. The applicant has the burden of proving by a preponderance of the evidence that ~~he~~ the applicant is a preference-eligible applicant.

(b) The time to appear provided in subsection (3)(a) may be waived by stipulation of the parties. If a time to appear has been specified pursuant to subsection (3)(a), the court may, on motion of one of the parties or on stipulation of all of the parties, grant a continuance.

(c) If the public employer does not carry its burden of proof under subsection (3)(a) and the court finds that the applicant is a preference-eligible applicant, the court shall order the public employer to comply with the provisions of 39-29-102. In addition, the court shall, upon proper proof, grant an award of backpay, reasonable attorney fees, and costs.

(4) Failure of an applicant to file a petition under subsection (2) within 90 days bars the filing of a petition. If a public employer fails to provide an explanation under subsection (1) within 15 days and a petition is filed under subsection (2), the court shall order the public employer to comply with the provisions of 39-29-102.

(5) The Montana Rules of Civil Procedure apply to a proceeding under this section to the extent that they do not conflict with this section."

- END -

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF JUSTICE TO ISSUE NATIONAL GUARD VETERANS' OR LEGION OF VALOR LICENSE PLATES TO NATIONAL GUARD VETERANS OR LEGION OF VALOR MEMBERS OR TO THEIR SURVIVING SPOUSES; AMENDING SECTIONS 61-3-332, 61-3-407, AND 61-3-446, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-3-332, MCA, is amended to read:

"61-3-332. Number plates. (1) A motor vehicle that is driven upon the streets or highways of Montana must display both front and rear number plates, bearing the distinctive number assigned to the vehicle. The number plates are in 10 series: one series for owners of motorcars, one for owners of motor vehicles of the motorcycle or quadricycle type, one for trailers, one for trucks, one for dealers in vehicles of the motorcycle or quadricycle type that bear the distinctive letters "MCD" or the letters "MC" and the word "DEALER", one for franchised dealers in new motorcars (including trucks and trailers) or new and used motorcars (including trucks and trailers) that bear the distinctive letter "D" or the word "DEALER", one for dealers in used motorcars only (including used trucks and trailers) that bear the distinctive letters "UD" or the letter "U" and the word "DEALER", one for dealers in trailers and/or semitrailers (new or used) that bear the distinctive letters "DTR" or the letters "TR" and the word "DEALER", one for dealers in recreational vehicles that bear the distinctive letters "RV" or the letter "R" and the word "DEALER", and one for special license plates. All markings for the various kinds of dealers' plates must be placed on the number plates assigned to the dealer, in the position that the department designates.

(2) All number plates for motor vehicles must be issued for a minimum period of 4 years, bear a distinctive marking, and be furnished by the state. In years when number plates are not issued, the department shall provide nonremovable stickers bearing appropriate registration numbers that must be affixed to the license plates in use.

(3) Subject to the provisions of this section, the department shall create a new design for number plates as provided in this section.

(4) In the case of motorcars and trucks, plates must be of metal 6 inches wide and 12 inches in length. The outline of the state of Montana must be used as a distinctive border on the license plates, and the word "Montana" and the year must be placed across the plates. Registration plates must be treated with a reflectorized background material according to specifications prescribed by the department.

(5) The distinctive registration numbers must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. The distinctive registration number or letter-number combination assigned to the vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(6) For the use of tax-exempt motor vehicles, in addition to the markings provided in this section, number plates must bear the following distinctive markings:

(a) For vehicles owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For vehicles that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the number plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these number plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the number plates requires it and a year number

may not be displayed on the number plates.

(7) On all number plates assigned to motor vehicles of the truck and trailer type, other than tax-exempt trucks and tax-exempt trailers, there must appear the letter "T" or the word "TRUCK" on plates assigned to trucks and the letters "TR" or the word "TRAILER" on plates assigned to trailers and housetrailers. The letters "MC" or the word "CYCLE" must appear on plates assigned to vehicles of the motorcycle or quadricycle type.

(8) Number plates issued to a passenger car, truck, trailer, or vehicle of the motorcycle or quadricycle type may be transferred only to a replacement passenger car, truck, trailer, or motorcycle- or quadricycle-type vehicle. A registration or license fee may not be assessed upon a transfer of a number plate under 61-3-317 and 61-3-335.

(9) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they may be formed, beginning with the number 57.

(10) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a nonremovable design or decal designating the group or organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of regular license plates, must be placed or mounted on a vehicle owned by the person who is eligible to receive them, and must be removed upon sale or other disposition of the vehicle. The special license plates must be issued to national guard members, former prisoners of war, persons with disabilities, reservists, disabled veterans, survivors of the Pearl Harbor attack, veterans of the armed services, <u>national guard veterans, legion of valor members,</u> or veterans of the armed services who were awarded the purple heart medal, who comply

with the following provisions:

(a) (i) An active member of the Montana national guard may be issued special license plates with a design or decal displaying the letters "NG". The adjutant general shall issue to each active member of the Montana national guard a certificate authorizing the department to issue national guard plates, numbered in sets of two with a different number on each set, and the member shall surrender the plates to the department upon becoming ineligible to use them.

(ii) The department may issue national guard veteran plates, bearing a design or decal displaying the Montana national guard insignia and the words "National Guard Veteran" and numbered in sets of two with a different number on each set, to an applicant who presents to the department a copy of certification of national guard retirement eligibility issued by the appropriate authorities for the applicant or the applicant's deceased spouse and who pays, in addition to all taxes and fees required by parts 3 and 5 of this chapter, a national guard veteran license plate fee of $10. The additional fee must be distributed in accordance with the provisions of subsections (10)(f)(iii) and (10)(f)(iv).

(b) An active member of the reserve armed forces of the United States of America who is a resident of this state may be issued special license plates with a design or decal displaying the following: United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force reserve, AFR (symbol); and United States marine corps reserve, MCR (globe and anchor). The commanding officer of each armed forces reserve unit shall issue to each eligible member of the reserve unit a certificate authorizing the issuance of special license plates, numbered in sets of two with a different number on each set. The member shall surrender the plates to the department upon becoming ineligible to use them.

(c) (i) A resident of Montana who is a veteran of the armed forces of the United States and who is 100% disabled because of an injury that has been determined by the department of veterans affairs to be service-connected may, upon presentation to the department of proof of the 100% disability, be issued:

(A) a special license plate under this section with a design or decal displaying the letters "DV"; or

(B) one set of any other military-related plates that the disabled veteran is eligible to receive under this section.

(ii) The fee for original or renewal registration by a 100% disabled veteran for a passenger vehicle

or a truck with a GVW-rated capacity of 1 ton or less is $5 and is in lieu of all other fees and taxes for that vehicle under this chapter.

(iii) Special license plates issued to a disabled veteran are not transferable to another person.

(iv) A disabled veteran is not entitled to a special disabled veteran's license plate for more than one vehicle.

(v) A vehicle lawfully displaying a disabled veteran's plate and that is conveying a 100% disabled veteran is entitled to the parking privileges allowed a person with a disability's vehicle under this title.

(d) A Montana resident who is a veteran of the armed forces of the United States and was captured and held prisoner by a military force of a foreign nation, documented by the veteran's service record, may upon application and presentation of proof be issued special license plates, numbered in sets of two with a different number on each set, with a design or decal displaying the words "ex-prisoner of war" or an abbreviation that the department considers appropriate.

(e) Except as provided in subsection (10)(c), upon payment of all taxes and fees required by parts 3 and 5 of this chapter and upon furnishing proof satisfactory to the department that the applicant meets the requirements of this subsection (10)(e), the department shall issue to a Montana resident who is a veteran of the armed services of the United States special license plates, numbered in sets of two with a different number on each set, designed to indicate that the applicant is a survivor of the Pearl Harbor attack if the applicant was a member of the United States armed forces on December 7, 1941, was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) at Pearl Harbor, the island of Oahu, or offshore at a distance of not more than 3 miles, and received an honorable discharge from the United States armed forces. If special license plates issued under this subsection are lost, stolen, or mutilated, the recipient of the plates is entitled to replacement plates upon request and without charge.

(f) A motor vehicle owner and resident of this state who is a veteran or the surviving spouse of a veteran of the armed services of the United States may be issued license plates inscribed as provided in subsection (10)(f)(i) if the veteran was separated from the armed services under other than dishonorable circumstances or was awarded the purple heart medal:

(i) Upon submission of a department of defense form 214(DD-214) or its successor or documents showing an other-than-dishonorable discharge or a reenlistment, proper identification, and other relevant documents to show an applicant's qualification under this subsection, there must be issued to the

applicant, in lieu of the regular license plates prescribed by law, special license plates numbered in sets of two with a different number on each set. The plates must display:

(A) the word "VETERAN" and a symbol signifying the United States army, United States navy, United States air force, United States marine corps, or United States coast guard, according to the record of service verified in the application; or

(B) a symbol representing the purple heart medal.

(ii) Plates must be furnished by the department to the county treasurer, who shall issue them to a qualified veteran or to the veteran's surviving spouse. The plates must be placed or mounted on the vehicle owned by the veteran or the veteran's surviving spouse designated in the application and must be removed upon sale or other disposition of the vehicle.

(iii) Except as provided in subsection (10)(c), a veteran or surviving spouse who receives special license plates under this subsection (10)(f) is liable for payment of all taxes and fees required under parts 3 and 4 of this chapter and a special veteran's or purple heart medal license plate fee of $10. Upon an original application for a license under this subsection (10)(f), the county treasurer shall:

(A) deposit $3 of the special fee in the county general fund;

(B) remit $1 for deposit in the state general fund; and

(C) deposit the remainder of the special fee in the state special revenue account established in 10-2-603 for administration, construction, operation, and maintenance of the state veterans' cemeteries.

(iv) Upon subsequent annual renewal of registration, the county treasurer shall deposit all of the special fee as provided in subsection (10)(f)(iii)(C).

(g) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability.

(h) The department may issue legion of valor license plates, bearing a design or decal depicting the recognized legion of valor medallion and numbered in sets of two with a different number on each set, to an applicant who presents to the department proper documentation of receipt of a legion of valor award by appropriate authorities to the applicant or the applicant's deceased spouse and who pays, in addition to all taxes and fees required by parts 3 and 5 of this chapter, a legion of valor license plate fee of $10. The additional fee must be distributed in accordance with the provisions of subsections (10)(f)(iii) and (10)(f)(iv).

(11) The provisions of this section do not apply to a motor vehicle, trailer, or semitrailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733."

Section 2. Section 61-3-407, MCA, is amended to read:

"61-3-407. Personalized veterans', national guard veterans', or legion of valor members' license plates. (1) Subject to the provisions of 61-3-405 and 61-3-406, an application for veterans', legion of valor members', or national guard veterans' license plates under 61-3-332(10)(a)(ii),(10)(f), or (10)(h) may be combined with an application for personalized plates.

(2) An application for personalized veterans', national guard veterans', or legion of valor members' license plates must be made on a form supplied by the department."

Section 3. Section 61-3-446, MCA, is amended to read:

"61-3-446. Retention of special license plates. If during a registration year the holder of special license plates issued under 61-3-332(10)~~(b) through (10)(g)~~ disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and may affix them to another vehicle."

NEW SECTION. Section 4. Effective date -- applicability. [This act] is effective January 1, 2000, and applies to registrations of motor vehicles occurring after December 31, 1999.

- END -

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING VETERANS' BURIAL LAWS; SUBSTITUTING THE TERM "INTERMENT" FOR THE TERM "BURIAL" TO PROVIDE BENEFITS FOR VETERANS WHOSE REMAINS ARE CREMATED; DEFINING THE TERM "RESIDENCE" FOR DETERMINING PAYMENT OF INTERMENT BENEFITS BY THE COUNTY OF RESIDENCE; PROVIDING FOR INTERMENT REIMBURSEMENT FOR A VETERAN WHO DIES AT A FEDERAL INSTITUTION OR AT A PRIVATE FACILITY; CLARIFYING THAT THE COUNTY OF RESIDENCE IS RESPONSIBLE FOR PAYING THE FIRST $30 OF THE COSTS FOR SHIPPING AND RAISING THE HEADSTONE ON A VETERAN'S GRAVE; AMENDING SECTIONS 10-2-501 AND 10-2-503, MCA; REPEALING SECTIONS 10-2-502 AND 10-2-505, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-2-501, MCA, is amended to read:

"10-2-501. ~~Burial~~ Interment allowance for ~~military~~ veterans -- payment by county of residence -- veterans' interment supervisor -- definitions. (1) The board of commissioners of each county in this state shall designate a person in the county, preferably a veteran, as veterans' ~~burial~~ interment supervisor.

(2) The veterans' ~~burial~~ interment supervisor shall cause to be decently interred the body or cremated remains of any veteran who was a resident of the state of Montana at the time of death. In performing this duty, the veterans' ~~burial~~ interment supervisor shall ensure that the desires of the veteran's personal representative or heirs are not violated. The veterans' interment supervisor may not receive any compensation for duties performed in compliance with this part.

(3) The ~~burial~~ interment may not be made in ~~any~~ a burial ~~grounds~~ ground or cemetery or in ~~any~~ a portion of ~~any~~ a burial ~~grounds~~ ground or cemetery used exclusively for the ~~burial~~ interment of pauper dead.

(4) A sum not to exceed $250 to defer ~~burial~~ interment expenses must be paid by the ~~county commissioners of the~~ veteran's county ~~in which the veteran was a bona fide resident at the time of death~~

of residence.

(5) The ~~burial~~ interment benefits are not available in the case of ~~any~~ a veteran whose personal representative or heirs waive the benefits.

(6) Whenever ~~burial~~ interment is of a resident of a Montana veterans' home, a sum not to exceed $250 to defer ~~burial~~ interment expenses must be paid by the ~~county commissioners of the~~ veteran's county ~~in which the veteran resided prior to admittance to a Montana veterans' home~~ of residence.

(7) If a veteran dies while temporarily absent from the state or county of residence, the provisions of this section apply and the ~~burial~~ interment expenses not exceeding the amount specified in this section must be paid in the same manner as provided in this section.

(8) ~~Whenever~~ When a veteran dies at ~~any public~~ an institution of the state of Montana, other than a Montana veterans' home, at a federal institution, or at a private facility and ~~burial~~ interment for any cause is not made in the veteran's county of ~~the former~~ residence ~~of the veteran~~, the officers of the ~~state~~ institution or facility shall provide the proper ~~burial~~ interment prescribed in this section. The reimbursement for the expense of each ~~burial~~ interment may not exceed $250. The expense must be paid by the veteran's county ~~in which the veteran resided at the time of entry into the institution~~ of residence.

(9) ~~A burial~~ An interment may not be covered by any special or standing contract ~~whereby~~ under which the cost of ~~burial~~ interment is reduced below the maximum amount fixed in this section, to the disparagement of proper interment.

(10) The veterans' ~~burial~~ interment supervisor shall, upon request of the deceased veteran's ~~next of kin or guardian~~ personal representative or heirs, assist in applying to the proper authority for a suitable headstone, as provided by act of congress, and in placing the headstone on the veteran's grave. ~~A sum not exceeding $70~~ The reimbursement costs for the shipping and raising of the headstone may not exceed $70 and must be paid by the ~~county commissioners of the~~ veteran's county ~~in which the veteran was a resident~~ of residence at the time of death. The expense must be audited and paid as provided in this section for ~~burial~~ interment expenses.

(11) ~~The~~ After payment of the first $30 from county funds, the county treasurer may withhold an amount of the county total monthly remittance to the state treasurer equal to the actual cost paid, up to $40, for the shipping and raising of each headstone.

(12) As used in this part, the following definitions apply:

(a) "Interment" has the meaning provided in 37-19-101.

(b) "Residence" is determined as provided in 13-1-112. If the intent of the veteran regarding residence cannot be determined under 13-1-112, the costs of interment must be paid by the veteran's county of residence at the time of admittance into a Montana veterans' home, a state or federal institution, or a private facility."

Section 2. Section 10-2-503, MCA, is amended to read:

"**10-2-503. Report of actions and expenses by ~~burial~~ veterans' interment supervisor.** It is the duty of the person appointed as provided in 10-2-501 to cause the veteran to be ~~buried~~ interred as provided in this part, and ~~he~~ the veterans' interment supervisor shall immediately report ~~his~~ the action to the clerk of the board of county commissioners, setting forth all the facts, together with the veteran's name and rank, the last command to which the veteran belonged, so far as is known, the date of death, the exact place of ~~burial~~ interment, and an itemized statement of the expenses incurred by reason of the ~~burial~~ interment. The board of county commissioners may direct that additional information be kept in the book required to be kept by the clerk of the board of county commissioners by 10-2-504."

NEW SECTION. **Section 3. Repealer.** Sections 10-2-502 and 10-2-505, MCA, are repealed.

NEW SECTION. **Section 4. Effective date -- applicability.** [This act] is effective on passage and approval and applies to claims filed on or after [the effective date of this act].

- END -

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON VETERANS' NEEDS

A BILL FOR AN ACT ENTITLED: "AN ACT ENTITLING A RESIDENT OR NONRESIDENT LEGION OF VALOR MEMBER TO FISH WITH A CONSERVATION LICENSE ISSUED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND AMENDING SECTION 87-2-801, MCA."

WHEREAS, the Legion of Valor is composed of recipients of the Congressional Medal of Honor, the Army Distinguished Service Cross, the Navy Cross, and the Air Force Cross; and

WHEREAS, members of the Legion of Valor have bravely served their country above and beyond the call of duty; and

WHEREAS, there are approximately 800 members of the Legion of Valor, 5 of whom reside in Montana; and

WHEREAS, pursuant to Article II, section 35, of the Montana Constitution, special considerations that the Legislature may give the five Montana Legion of Valor members should be extended to their distinguished out-of-state colleagues; and

WHEREAS, the people of Montana can show their appreciation to these medal recipients by allowing resident and nonresident Legion of Valor members to fish with a conservation license issued by the Department of Fish, Wildlife, and Parks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-2-801, MCA, is amended to read:

"87-2-801. Residents over sixty-two years of age -- resident or nonresident legion of valor members. (1) A resident, ~~under the definition of~~ as defined in 87-2-102, who is 62 years of age or older is entitled to fish and hunt game birds with a conservation license issued by the department. The form of ~~such~~ the license ~~shall~~ must be prescribed by the department.

(2) A resident who is 62 years of age or older is also entitled to purchase regular resident deer and elk tags at a price that is one-half of the fee paid by a resident who is 15 years old or older and who

is under 62 years of age.

(3) Regardless of age, a resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a conservation license issued by the department."

- END -

APPENDIX B

SUBCOMMITTEE LETTERS

Joint Interim Subcommittee on Veterans' Needs

55th Montana Legislature

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

SENATE MEMBERS
EVE FRANKLIN
DON HARGROVE
DALE MAHLUM
BARRY "SPOOK" STANG

HOUSE MEMBERS
ROGER DEBRUYCKER
HARRIET HAYNE
JOHN JOHNSON
DOROTHY C. SIMPSON

COMMITTEE STAFF
JO ANN JONES
SECRETARY
SHERI HEFFELFINGER
RESEARCHER
EDDYE MCCLURE
ATTORNEY

October 16, 1998

Senator Charles "Chuck" Swysgood
Presiding Officer
Legislative Finance Committee
506 S. Atlantic St.
Dillon, MT 59725-2723

Dear Senator Swysgood:

Recent actions by a subcommittee of the Legislative Finance Committee indicate that the subcommittee decided not to propose de-earmarking the 11.11% allocation of cigarette tax revenue for Montana's state nursing homes for veterans.

This letter is to communicate to you that the Joint Interim Subcommittee on Veterans' Needs is gratified by that decision. Our Subcommittee voted unanimously to oppose any move to de-earmark this money, which is an important source of support for the veterans' homes.

We look forward to legislative support for veterans' needs during the upcoming session and believe that retaining this earmarked funding will continue a stable and important resource for Montana's aging veteran population.

Best regards,

Senator Don Hargrove
Presiding Officer

cc. Legislative Finance Committee members
Mr. Clayton Schenk

C25 8289shxa.

Joint Interim Subcommittee on Veterans' Needs

55th Montana Legislature

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

SENATE MEMBERS
EVE FRANKLIN
DON HARGROVE
DALE MAHLUM
BARRY "SPOOK" STANG

HOUSE MEMBERS
ROGER DEBRUYCKER
HARRIET HAYNE
JOHN JOHNSON
DOROTHY C. SIMPSON

COMMITTEE STAFF
JO ANN JONES
SECRETARY
SHERI HEFFELFINGER
RESEARCHER
EDDYE MCCLURE
ATTORNEY

October 16, 1998

Senator Daryl Toews
Presiding Officer
Joint Committee on Postsecondary
Education Policy and Budget
HC 66, Box 34
Lustre, MT 59225-9703

Dear Senator Toews:

The bill draft from the Joint Committee on Postsecondary Education Policy and Budget to repeal the tuition and fee waiver program for Montana National Guard members was recently brought to the attention of the Joint Interim Subcommittee on Veterans' Needs.

This letter is to express to you our subcommittee's unanimous opposition to the proposed legislation and to request that your committee reconsider this action.

Because the Legislature has not provided for the funding, if a unit of the University System grants the tuition and fee waiver to a National Guard member, the cost must be absorbed by the university. Since participation is voluntary on the part of each institution, it seems desirable to leave the program viable and allow them the option. We should not legislate to the level of determining whether they will use the program, but a responsible legislature will give them tools to use if appropriate.

Our men and women who serve in the Montana National Guard provide a critical resource in times of a state emergency or national need. Increased use of the Guard to support missions throughout the world, most recently in the Persian Gulf and Bosnia, has placed considerable strain on the Guard's ability to recruit and retain qualified personnel.

Forty-one states have enacted some type of program to provide educational assistance for National Guard members. Five other states are preparing to do so. North Dakota and South Dakota have provided for funded educational waiver programs for National Guard members. The discretionary program in Montana is the least we can do to assist our Montana National Guard in the competition for recruits.

In summary, the tuition and fee waiver statute imposes no added cost to the Board of Regents' budget and has not been given an adequate opportunity to work since being enacted by the Legislature less than two years ago.

It is our hope that you will weigh the merit of keeping the voluntary tuition and fee waiver program and reconsider introducing legislation to repeal it. If you have questions, would like more information, or would like to discuss this matter further, please feel free to contact me or our subcommittee staff.

Best regards,

Senator Don Hargrove
Presiding Officer

cc. Members of the Joint Committee on Postsecondary Education Policy and Budget
Ms. Sandy Whitney
C25 8289shxb.

Joint Interim Subcommittee on Veterans' Needs

55th Montana Legislature

Room 138 State Capitol
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

SENATE MEMBERS
EVE FRANKLIN
DON HARGROVE
DALE MAHLUM
BARRY "SPOOK" STANG

HOUSE MEMBERS
ROGER DEBRUYCKER
HARRIET HAYNE
JOHN JOHNSON
DOROTHY C. SIMPSON

COMMITTEE STAFF
JO ANN JONES
SECRETARY
SHERI HEFFELFINGER
RESEARCHER
EDDYE MCCLURE
ATTORNEY

October 16, 1998

Senator Mike Halligan
Presiding Officer
Subcommittee on Legislative Improvement
101 E. Broadway St., Suite 314
Missoula, MT 59802-4510

Dear Senator Halligan:

At its last meeting, the Joint Interim Subcommittee on Veterans' Needs was briefed on the proposal to restructure interim committees. This letter is to communicate to you our thoughts on this matter.

While our subcommittee members are intrigued by the proposal, we believe the issues merit further consideration and discussion by the full Legislature. In the meantime, we are moving ahead with a subcommittee bill to make the Joint Interim Committee on Veterans' Needs a permanent statutory committee. The needs of Montana's veterans should be a recognized priority and not lost amid a myriad of other issues.

Nevertheless, we recognize the need to address the issues that gave rise to the restructuring proposal. As you move ahead with the bill draft to restructure interim committees, we would like to see veterans' issues expressly mentioned in the bill and to see them placed under the jurisdiction of the proposed interim Committee on State Administration. We are not supportive of allocating veterans' issues to a health and welfare committee.

We appreciate your efforts and look forward to further discussions during the upcoming session.

Best regards,

Don Hargrove

Senator Don Hargrove
Presiding Officer

cc. Legislative Council members
Mr. Greg Petesch
C25 8289shxc.

APPENDIX C

STAFF REPORTS ON VETERANS' PREFERENCE LAWS

OVERVIEW OF MONTANA'S VETERANS' EMPLOYMENT PREFERENCE LAWS

Prepared for the
Joint Interim Subcommittee on Veterans' Needs

September 1997

Over the years, consideration of an employment preference for persons, including Montana's veterans, has been one of the more controversial issues faced by the Montana Legislature. At the request of the Joint Interim Subcommittee on Veterans' Needs, this report has been prepared and is intended to provide a brief historical background on the controversy surrounding Montana's efforts to enact an employment preference for the state's veterans.

Veterans' Employment Preference
1921 - 1981

The state's first employment preference law was enacted in 1921 and was amended some nine times between 1921 and 1981. Throughout the various amendments and recodification, the stated purpose of the law, as codified at Title 10, chapter 2, part 2, in 1981, was to give preference "in appointment and employment" to veterans, their dependents and unremarried surviving spouses, and certain disabled civilians. The preference applied to employment in "every public department and upon all public works" of the state, county, and municipal governments. The term "veteran" was defined to include persons:

(a) who had served in the United States armed forces during war or declared national emergency and who had left the service under conditions other than dishonorable; or

(b) persons who after January 31, 1955:

(i) served on active military duty for more than 180 days or had been discharged or released because of a service-connected disability; and

(ii) were honorably discharged.

The law defined "war or declared national emergency" to include the Civil War through the Vietnam conflict between August 5, 1964, and May 7, 1975.

Employment preference was an absolute one for veterans, veterans' spouses and unremarried surviving spouses, disabled veterans' dependents, and disabled civilians recommended by the Department of Social and Rehabilitation Services. Under the law, disabled veterans were given preference in employment over other veterans.

In addition to the absolute preference granted, the law gave certain preferred persons additional points whenever written or oral examinations were used in hiring procedures. Under this provision, 10 points were added to the scores of disabled veterans or their spouses, surviving spouses, or other dependents, while all other veterans and their spouses, surviving spouses, and dependents received 5 additional points. Disabled civilians received no additional points.

A person was not entitled to the employment preference if the person had refused to serve on active duty, had refused to "take up arms" to defend the country, or had not been a Montana resident for at least 1 year before accepting employment. A person applying for a city or county job must have been a resident of the city or county in which employment was sought. The law also outlined a procedure for enforcement of the preference.

The "Crabtree" Decision

The event that focused public and legislative attention on the state's employment preference law was a case filed against the state not by a veteran, but by Vivian Crabtree, a legally blind applicant for a state library position. After receiving notice that she had not been hired, Crabtree filed a petition seeking enforcement of the existing employment preference law. Crabtree argued that

the preference was absolute and claimed that she should have been hired over all other qualified applicants, regardless of any relative qualifications of the other candidates because she possessed the capacity, competency, and education to perform the job.

The state, however, argued that the state's policy had been to interpret the preference as a relative one, not an absolute preference, which required that preferred veterans and disabled persons be hired when their qualifications were substantially or reasonably equivalent to competing applicants.

In a 1982 decision, the District Court sided with Ms. Crabtree, ruling that nothing in the language of the statutes suggested that the preference was relative to the qualifications of other applicants. The only limiting factor to hiring a preference-eligible candidate was the person's ability to perform the job. The library was ordered to reopen the selection process and to give preference to any minimally disabled civilian over all other nondisabled civilian applicants. The state appealed the decision to the Montana Supreme Court.

The 1983 Legislative "Attempt"

While the Crabtree decision was on appeal to the Montana Supreme Court, the Legislature met in Regular Session in 1983 and was presented with three bills (Senate Bill No. 197, Senate Bill No. 377, and Senate Bill No. 378) and one resolution (House Joint Resolution No. 41) to address the employment preference issue. Despite hearings on each bill, the Legislature could not arrive at any consensus concerning either SB 197, SB 377, or SB 378, and instead adopted HJR 41, which required the interim committee to study the issue and make recommendations to the 1985 Legislature.

Two months after adjournment of the 1983 Legislature, the Montana Supreme Court issued its opinion in Crabtree (204 M 398, 665 P2d 231, 40 St. Rep. 963 (1983)), unanimously affirming the District Court's decision in favor of Crabtree.

The Supreme Court concluded that the Legislature had intended to grant an absolute preference to certain classes of applicants by enacting the 1921 laws and viewed the preference statutes as an affirmative action program designed to give particular benefits to covered classes. The Court ruled that the law did not discriminate against women since it applied to both male and female veterans and disabled civilians, and the Court dismissed claims by local governments that an absolute preference would subject employers to lawsuits for negligent hiring.

1983 House Joint Resolution No. 41 Interim Study

Following the Supreme Court decision in Crabtree and amid the filing of lawsuits against the state and the scramble by state agencies to adopt rules and guidelines to comply with Crabtree, a Joint Interim Subcommittee began work in September 1983. And, if hearing reports and testimony from state and local governments concerning the repercussions of the Crabtree decision were not enough, the Subcommittee soon learned that another District Court decision had expanded the Crabtree decision to apply retroactively to promotions as well as initial hirings and ruled that the remedy available to an unsuccessful job candidate denied preference was appointment to the position plus back pay. (See Jensen v. St., Dist. Ct. Eight Jud. Dist., BDU-83-706 (1983).) On appeal, the Montana Supreme Court affirmed the retroactive applicability of Crabtree, but vacated and remanded that portion of the District Court's decision giving Jensen an appointment to the position with back pay. (See Jensen, 213 M 84, 689 P2d 1231, 41 St. Rep. 1971 (1984).) Under Jensen, the state agency was required to reopen the position and apply the preference in accordance with Crabtree.

On the heels of Crabtree and Jensen, state officials, including legislative leaders and the Superintendent of Public Instruction, began calling for a special session of the Legislature to resolve the preference controversy. The Governor agreed to call a special session if the Subcommittee could reach a consensus on a

revision of the employment preference law. The Subcommittee agreed to meet in early December in expectation of a January or February special session. When the Governor scheduled the special session on employment preference for December 12, 1983, the Subcommittee advanced its schedule and held a

2-day meeting in November to develop preliminary recommendations and conducted hearings on a draft proposal on December 9 and 10, 1983.

1983 Special Session: The "Montana Veterans' and Handicapped Persons' Employment Preference Act"

On December 12, 1983, the Subcommittee introduced the same version of its proposal simultaneously in the House and Senate to allow both houses to begin work on the proposal on the first day of the 1983 Special Session. Following a 6-day special session, Senate Bill No. 2 was signed into law on December 20, 1983, and the "The Montana Veterans' and Handicapped Persons' Employment Act" (the Act) was codified as 39-30-101 through 39-30-207, MCA.

In adopting the 1983 Act, the Legislature provided that the preference should be a relative, not absolute one applied among two or more applicants having "substantially equal qualifications". The Act defined those groups that were preference eligible, and included veterans, disabled veterans, eligible spouses, and handicapped persons. Among veterans and disabled veterans, the Act limited the preference to those who received honorable discharges. Handicapped persons suffering from mental impairment were eligible for the preference.

In an "initial hiring", public employers were required to hire a preference-eligible applicant over any nonpreferred applicant holding substantially equal qualifications. Additionally, the Legislature required public employers to give handicapped persons and disabled veterans preference over all other preference-

eligible applicants with substantially equal qualifications. As introduced, SB 2 had required that only disabled veterans be preferred above the preference-eligible. The Montana University System, Board of Regents, community colleges, postsecondary vocational-education centers, and school districts were exempted from applying the preference.

As introduced, SB 2 gave a veteran preference for life, but provided that once a veteran obtained a position through application of the preference, the veteran could not use the preference again. In the enacted version, the Legislature altered the duration of the preference by providing that a nondisabled veteran qualified for the preference for no longer than 15 years after separation from service or no longer than 5 years after the effective date of the Act or December 20, 1983, whichever was later. The Act also required the public employer to prove by a preponderance of the evidence that the applicant was not substantially equally qualified and exempted the Act from the Human Rights Act and the Government Code of Fair Practices provisions.

1989: Veterans' Public Employment Preference
House Bill No. 700

Following unsuccessful attempts to enact legislation in the 1985 and 1987 Legislative Sessions, Representative Pavlovich introduced House Bill No. 700 in the 1989 Legislative Session. As introduced, HB 700 separated the veterans' preference from the 1983 Act and established a veterans' preference point system. Under HB 700, whenever a public employer used a scored procedure, the employer was required to add 5 percentage points to the score of a veteran applicant and 10 percentage points to the score of an applicant who was disabled veteran or eligible relative. To receive any points, a veteran, disabled veteran, or eligible relative was required to be a U.S. citizen and had to score a minimum of 70 or more percentage points on a written test.

House Bill No. 700 expanded the preference eligibility list to include "peacetime"

veterans, volunteers, and retirees, expanded the definition of "disabled veteran", and expanded the preference beyond an "eligible spouse" by defining "eligible relative", which could include, under certain scenarios, the mother of certain veterans. The preference included "temporary" positions and required that the Montana University System, Board of Regents, community colleges, postsecondary vocational-education centers, and school districts apply the preference. Although HB 700, as introduced, applied the preference to all positions, the enacted version maintained the existing law, which restricted its application to the "initial hiring" of an employee.

House Bill No. 700 included a section protecting veterans, disabled veterans, and eligible relatives in the case of a reduction in force for positions not covered by a collective bargaining agreement. Proponents believed HB 700 was necessary to ensure the existence of a veterans' preference law beyond 1988, while opponents argued, among other things, that HB 700 unnecessarily created separate preference laws for veterans and the handicapped, that the bill unfairly expanded the preference to include peacetime veterans and their relatives, and that the reduction-in-force provision would result in increased litigation because of possible conflicts with collective bargaining agreements. Others predicted that public employers would avoid the law altogether by electing not to use a scored procedure in the hiring process.

Despite this opposition, HB 700 was passed by the Legislature, signed by the Governor, and the veterans' preference law was codified as Title 39, chapter 29, MCA. Although the Act was scheduled to terminate on July 1, 1991, the sunset provision was repealed by House Bill No. 11 during the 1991 Legislative Session.

1997 Legislative Session

During the debate on HB 700, opponents had predicted that instead of increasing employment protection for veterans, passage of the Act would result

in public employers deciding to avoid applying the preference through use of nonscored hiring procedures. Prior to the 1997 Legislative Session, the Joint Interim Subcommittee on Veterans' Needs was informed that this result was indeed occurring and the Subcommittee was urged to sponsor a bill in the upcoming regular session.

A proposal was drafted that amended the veterans' preference law to prevent public employers from legally avoiding the use of the preference, expanded the point preference to include promotions, required a public employer to administer a new test or reopen the current test if no applicant received the required 70% score, provided that a substantially equivalent procedure be used for any selection procedure, and expanded the notice and enforcement provisions to any preference procedure.

After considerable debate, it became apparent that the Subcommittee did not want to "open up" the veterans' preference law issue. While some Subcommittee members supported amending the law to address the problems, the majority feared that additional amendments, not recommended by the Subcommittee, would be added to the proposal. Adding to this fear was the introduction of House Bill No. 299 and House Bill No. 303, which proposed to repeal state laws providing employment preferences based on race or gender. While the veterans' preference law has been ruled "gender and race neutral", some Subcommittee members feared that this distinction would be lost amid the preference repeal movement and that any bill attempting to strengthen the veterans' preference laws would result in a backlash and possible repeal of all employment preferences. As a result, the proposal to amend the veterans' preference law was not introduced during the 1997 Legislative Session. The Subcommittee did adopt a proposal to send a letter to Governor Racicot, with copies to the department director of each state agency, expressing concern about what it perceived to be a legal "end run" around the purpose of the veterans' preference law through the use of nonscored procedures and unreasonably difficult scored examinations. The Subcommittee received a

written response from Governor Racicot promising to follow up on the issues raised by the Subcommittee regarding noncompliance with the veterans' preference law by public employers.

Conclusion

From the enactment of the first veterans' and disabled civilians' employment preference law in 1921 through the legal uncertainties arising from the Crabtree and Jensen decisions, the adoption of a separate veterans' employment preference law in 1989, and even through the confusion created during the 1997 efforts to repeal employment preferences based on gender and race, the establishment and preservation of an employment preference for Montana veterans has been hard fought and remains somewhat controversial.

As enacted in 1989, the Montana's Veterans' Public Employment Preference remains separate and contains some provisions that are distinctly different from those found in the earlier versions of the combined veterans' and handicapped persons' employment preference law.

Montana's Veterans' Public Employment Preference law requires any public employer who uses a scored procedure to add 5 percentage points to the score of a veteran and 10 percentage points to the score of a disabled veteran or eligible relative who scores 70 or more percentage points on the scored procedure. Unlike the separate employment preference for a handicapped person, the term "public employer" under the veterans' preference law includes the Montana University System, a school district or community college, and any county, city or town. While both the veterans' and handicapped persons' preference laws apply only to the "initial hiring", the term "position" in the veterans' preference law includes a temporary as well as permanent or seasonal position. Likewise, the veterans' preference law extends the preference to an "eligible relative" while the handicapped persons' preference applies only to an "eligible spouse". Current law still allows a public employer to escape the

application of the veterans' preference through the use of a nonscored hiring procedure.

155 7241emxa.

APPENDIX D

AGENCY REPORT ON MONTANA'S VETERANS' NURSING HOMES

PRESENTATION TO THE

JOINT INTERIM LEGISLATIVE SUBCOMMITTEE ON

VETERANS' NEEDS

MARCH 1998

Table of Contents

History of the Montana Veterans' Home.....Page 3

History of the Eastern Montana Veterans' Home.....Pages 4&5

MVH Special Care Unit Proposal.....Pages 6-8

MVH Domiciliary Proposal.....Page 9

EMVH Improvements Proposal.....Pages 10&11

Attachments

*MVH Nursing Home Occupancy History

*MVH Domiciliary Occupancy History

*EMVH Occupancy History

HISTORY OF
MONTANA VETERANS' HOME

Evolution of Facility

The Montana Veterans' Home(MVH) was dedicated in May of 1896. By November 1898 there were 63 members in the Home. In those days the facility was primarily a retirement home for Civil War and Indian War veterans. According to the annual report of 1898 the average age was over 60 years old and the home expected to admit 12-15 members in the next year.

Recent facility developments

The older buildings on campus were used until 1969 when the construction of a new 60-bed domiciliary was completed. Old Main, the original MVH residence, was vacated and the members moved into the new domiciliary.

In 1973, a forty-bed nursing unit was added to the facility. In 1984 an additional fifty nursing home beds were added, bring the total nursing facility beds at MVH to ninety.(See Attachment A)

As the need for nursing home beds has increased, the domiciliary population has steadily gone down, decreasing from an average daily population of over sixty in 1969 to the an average daily population of twenty-seven in 1997.(See Attachment B)

Changes in the characteristics of MVH members:

Just as the characteristics of the MVH physical plant have changed over the years, the characteristics of the Veterans served by MVH have also changed.

In 1980 the typical domiciliary member was an older veteran with the ability to provide most of his care. As his health deteriorated he would be transferred to the nursing unit. There is some difference in the domiciliary members of 1998. They generally are younger veterans. They often have an alcohol/drug dependency and/or psychiatric diagnoses, with psychosocial problems that prevent them from gainful employment.

Not only has the number of members needing nursing facility services increased, the intensity of the needs of the people in the nursing facility has increased as well.

HISTORY OF THE
EASTERN MONTANA VETERANS' HOME

History

In 1893 the need for an Old Soldiers Home in Eastern Montana was recognized and the appropriate bill was prepared for State House of Representatives. The Representatives passed the bill unanimously and forwarded it to the Senate where the bill died. In 1987, nearly 100 years later, the idea of a State Veterans Home in Eastern Montana arose again.

In 1988, a group of veterans and other interested citizens from Glendive, began a serious lobbying effort with the Montana Congressional Delegation regarding the need for a 100 bed state veterans home in eastern Montana. State Representative John Johnson introduced a bill in the Montana Legislature to tax cigarettes to raise the State's share of the construction funds. During this year the city of Glendive agreed to donate land for the Veterans Home if it was constructed.

In January 1989, a bill was passed by the Montana Legislature providing for the construction of a States Veterans Home in Eastern Montana Governor Stephens appointed a site selection committee and ten communities submitted proposals

In 1990 Glendive was selected as the site for the Eastern Montana Veterans' Home. The state submitted an application for funding to the VA The city and state selected a 13.5 acre plot for the Home and the land was transferred.

In 1991, federal funding for construction of EMVH was approved. The State Legislature also approved matching funds from the cigarette tax Ground breaking was set for July 1993.

In 1992, when the construction bids came in over the available budget, the number of beds in the planned facility were reduced from 100 to 80 in order to cut costs. Other changes included: reducing the building size from 65,000 square feet to 49,000 square feet; removing the basement mechanical rooms; removing the covered driveway entrance; reducing the landscaping and irrigation to one-half the site; removing the exterior parking lot lighting; deleting the attached garage; removing showers from the bathing areas, deleting floor coverings from the closets; removing air conditioning from resident rooms, and substitution of wood for steel framing.

In 1993, the Department of Institutions recommended canceling the construction of EMVH as a cost saving measure. The legislature decided to move ahead with construction under the condition that EMVH be operated by a private health care provider through a contract with the state. In October a ground breaking ceremony was conducted.

In 1994 Glendive Medical Center was selected to operate the facility.

In 1995, EMVH opened doors for admission in July.

EMVH History Continued:

Description

EMVH is an 80 bed, VA approved, state veterans home providing skilled and intermediate nursing home care. Of the 80 beds, 10 are segregated for veterans with Alzheimer disease or other forms of dementia. This Special Care Unit has a small attached courtyard with a fence enclosure. There is a detached, three stall garage in the rear of the facility. The buildings are located on a 13.5 acre plot, of which about half has been irrigated.

Occupancy

Occupancy has steadily increased since the doors opened in 1995. This fact is remarkable considering that during the same time frame, nursing home beds statewide have declined in occupancy. Currently EMVH has 64 residents, or 80% of full occupancy. This is about average for Eastern Montana.(See Attachment C).

Special Care Unit

The Special Care Unit filled soon after opening, and has remained full except for short periods of time when moving veterans in or out. We currently have a waiting list for the Special Care Unit.

Montana Veterans' Home Special Care Unit Proposal

What is a Special Care Unit?

As the name implies, Special Care Units(SCU) provide a level and type of service not ordinarily found in nursing facilities. While all special care units differ somewhat, they have a number of features in common, including:

1. A lower staff to resident ratio than the typical nursing home;
2. Specially trained staff;
3. Enriched resident activities programming;
4. A modified physical environment that provides security through locked doors, enclosed courtyards and other features such as separate dining and recreation areas; and
5. A selected resident population in need of the services offered by the Unit.

Who does a Special Care Unit serve?

The people served by an Special Care Unit generally have some form of progressive dementia, most often Alzheimer's Disease. SCU's admit mildly to severely impaired individuals who have difficulties residing in a general nursing home population because of the behavioral symptoms associated with the disease, such as wandering and general confusion and disorientation. As the disease progresses to the point where the resident is totally bedridden, he or she is generally transferred to the regular nursing home in order to make room for someone who can benefit more from the services of the SCU.

What are the advantages of a Special Care Unit?

SCU's offer a number of advantages over regular nursing facilities, including:

1. Services and an environment specifically tailored for cognitively impaired residents;
2. A philosophy of treatment that focuses on the unique nature of cognitively impaired residents;
3. Staff trained specifically in the skills necessary to meet the needs of the SCU residents, resulting in better care and less staff frustration and burnout;
4. Dramatically less confusion and disruption for the cognitively alert residents who do not have dementia; and
5. Greater satisfaction on the part of families with the care given their loved ones.

Why do we need a Special Care Unit at the Montana Veterans' Home?

As the availability of home care and small assisted living facility services increases, the role of the traditional nursing home is changing. As nursing homes change, the characteristics of the typical nursing home resident is changing as well. More and more the people seeking nursing home services have need for the services offered by a Special Care Unit.

As of March, 1998, MVH has a waiting list of 24. Of this number, eight have some form of Dementia. Because of the intense nature of the needs of cognitively impaired residents and the limitations imposed by current staffing patterns and the existing physical plant, MVH is only able to safely serve a limited number of residents with Dementia or Alzheimer's Disease at any one time.

What kind of Special Care Unit is proposed for MVH?

The proposed SCU would be have 15 beds and cover approximately 5,000 sq.ft.. The unit would have secure entrances that separate it from the existing nursing facility, separate dining and activities areas, an enclosed courtyard for outdoor activities and a more homelike appearance than the typical nursing facility. There would be a total of 10 resident rooms; 5 single person rooms and 5 double occupancy rooms. The proposal calls for 14 additional FTE, including a full time nurse on each shift and more certified nurses aides per resident than the existing nursing home.

How much will it cost to build?

The proposed Special Care Unit at the Montana Veteran's Home is projected to cost about $1.3 million dollars to construct and equip, assuming the construction occurred in the coming biennium.

Where will the money come from?

The initial funding of construction would come from the portion of the state cigarette tax earmarked for the construction and operation of veterans' nursing homes. The project is eligible for federal funding from the Veterans' Administration's State Home Construction program at a 35% state / 65% federal matching rate. The State Home Construction funds are currently allocated to projects on a first come first serve basis. It could take several years to move up the priority list, but assuming the VA's construction program continues to operate as it does now, the state would eventually recover about $900,000 of the $1.4 million cost of construction.

How much will it cost to operate?

The cost of operating the SCU is projected to be about 440,000 per year.

How will it be funded?

The ongoing operations funding will come from three primary sources:

Per diem payments to residents from the Veterans' Administration;
Third party payments from the Medicaid, Medicare and private payments by residents; and
About $100,000 per year in funding from the earmarked cigarette tax.

When would the SCU operate?

The proposal is to build the SCU during the 1999 biennium and begin operation on July 1, 2001.

Is there enough cigarette tax revenue to fund the construction and operation of the SCU?

The balance in the cigarette tax earmarked account is currently about $2.0 million dollars. For the last three years, revenues have exceeded expenditures by over $400,000 per year. Assuming that trend continues through the next biennium, there will be about $3.2 million in the account to fund the new construction and any other minor long range building expenditures at MVH or EMVH. In addition, federal reimbursement for construction could provide a $900,000 windfall to offset the majority of those costs at some point in the future.

The additional expenditures for operation beginning in 2001 can be absorbed within existing projected annual revenue and still generate an increasing balance in the earmarked account in future years.

Do we really need more nursing home beds at MVH?

MVH has a long waiting list of people seeking nursing home care. World War II veterans' are approaching the time of life where demand for nursing home care is greatest; Korean War and Vietnam Veterans will soon follow. MVH can better meet the long term care needs of Montana's veterans if we have a Special Care Unit.

It would be possible to avoid an increase in beds by building the SCU and at the same time decertifying an equal number of existing nursing home beds, resulting in no net increase. Such an approach would reduce the total annual operating cost of the SCU by about $150,000 per year and reduce the required number of new FTEs from 14 to 10. Unfortunately, because of the lost VA per diem and third party revenue associated with fewer total residents, the amount of cigarette tax revenue required to operate the new unit would double, the private pay rate charged to veterans paying for their own care would increase and the likelihood of federal reimbursement for construction costs would be reduced since the VA gives priority to funding projects that add additional nursing home beds.

MVH DOMICILIARY PROPOSAL

Issue

Over the past several years the characteristics of the residents of the Domiciliary have changed. The Dom residents of today have a greater need for mental health or substance abuse services and/or need more assistance with activities such as dressing, bathing and other self-care behaviors. There are currently no direct care staff assigned to work in the Dom on a full-time basis. When a resident requires routine assistance with self-care, they must move to the MVH nursing home, at a significantly higher cost.

Proposal

As part of the Executive Planning Process the Senior and Long Term Care Division is developing a proposal to add a direct care staff person for eight hours each day to assist residents of the domiciliary to complete basic activities of daily living such as bathing, dressing, grooming, hygiene, and in addition make more opportunities for meaningful structured activities available to residents of the Dom. These services will enhance the dignity of residents and reduce or delay the financial impact of moving to the higher cost nursing facility.

Funding

The proposal will be funded through the portion of the cigarette tax earmarked for the operation and maintenance of the state's veterans' nursing homes The additional 1.6 FTE required to provide the necessary level of staffing will cost about $33,000 per year.

EMVH IMPROVEMENT PROPOSALS

The following are some proposals to enhance services at the Eastern Montana Veterans' Home that the Senior and Long Term Care Division intends to submit to the Department Director as part of the division's Executive Planning Process package:

Handicapped Accessible Van -This request is for a used van modified to include a wheelchair lift for EMVH. The van is needed to provide transportation for EMVH residents, including transportation to medical appointments in Billings and the Veterans' Administration hospital in Miles City. Currently such transportation is either unavailable or provided in private vehicles that are not accessible to people with physical disabilities. The estimate cost of a used van modified to handle a wheelchair lift is approximately $20,000. The Department is also working with the Montana Department of Transportation(MDT) and the local Glendive transportation coordination committee to look into the possibility of purchasing a similar handicapped accessible van with federal MDT funds for use both at EMVH and as part of the local transportation network.

EMVH Maintenance Fund - This request is to begin charging the Contractor who operates the Eastern Montana Veterans' Home(EMVH) rent for the building, place the money in a fund, appropriate the proceeds from the rent for ongoing repair and to act as a capital reserve fund for major maintenance projects. The contractor was not charged any rent because of the low facility occupancy during the initial start-up phase. As occupancy has risen and the need for ongoing repair and maintenance has increased, charging rent and using it to fund facility up keep seems logical. The initial amount of the rent is estimated to be approximately $2,000 per month. The rent will be segregated into its own State Special Revenue account for repair of the EMVH.

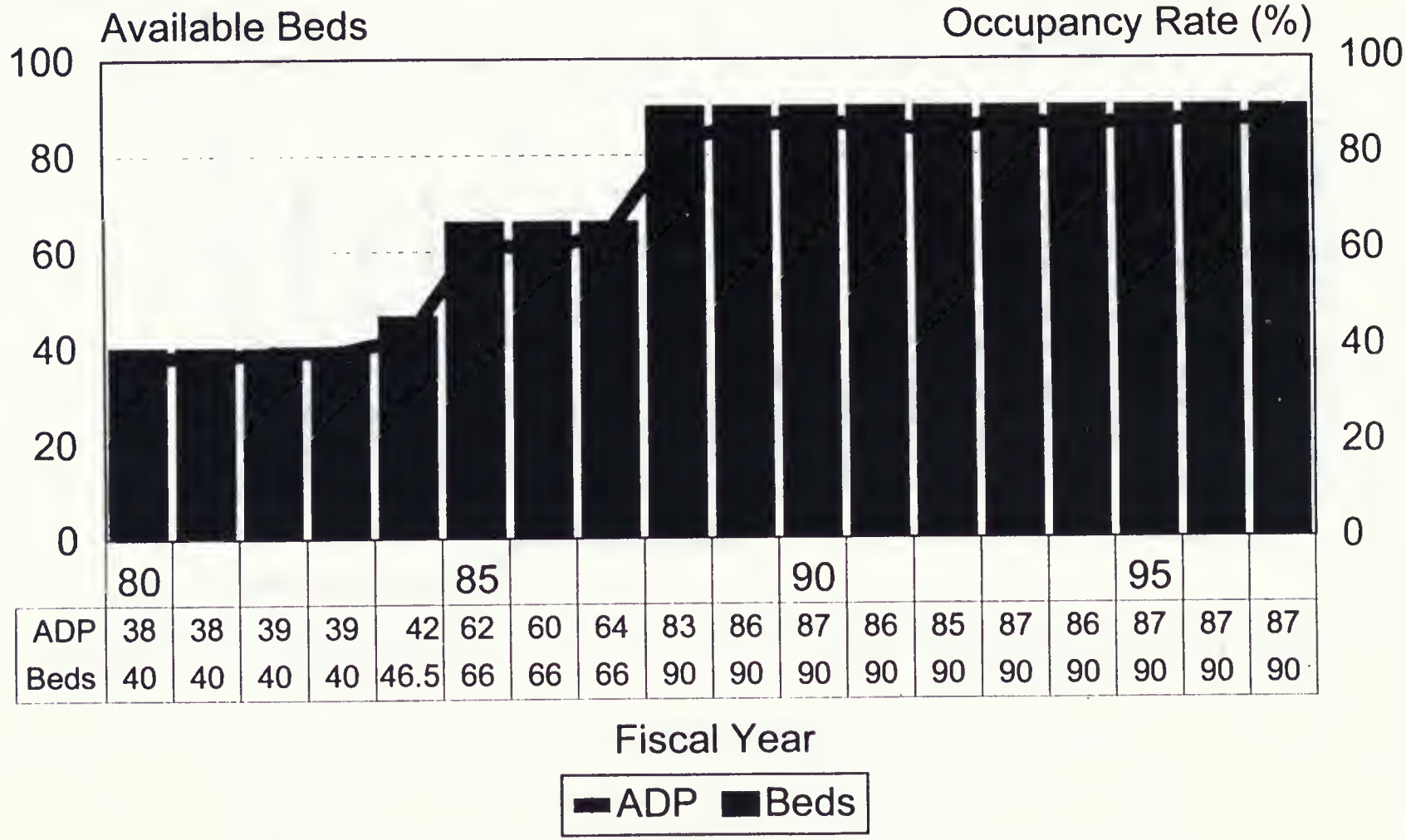
Physical Plant Modifications - Both the staff of Glendive Medical Center(GMC), the contractor operating EMVH, and the on-site state staff person responsible for the building and monitoring the contract, believe the following enhancements to the EMVH physical plant would improve the services provided to the veterans' residing at EMVH.

Special Care Unit - This request is to expand living area for the Special Care Unit at EMVH. The plan calls for adding a 12' X 20' extension to the current activity/dining room and to modify some of the other interior features of the unit and expand the outside recreation area used by the Special Care Unit residents. The existing activity and dining room areas are small and the residents could benefits from the increased living space and outdoor recreation area. The estimated cost of the modifications are approximately $70,000. The source of funding is the cigarette tax earmarked for the operation and maintenance of veterans' nursing homes.

Additional Dining and Recreation Space - This request is to expand the existing recreation and dining areas to provide a dual purpose space that would serve as both a separate dining area for residents that cannot feed themselves and additional recreation space when not serving as a dining area. The estimated cost of this modification is $150,000. The source of funding is the portion of the cigarette tax earmarked for the operation and maintenance of veterans' nursing homes.

Montana Veterans' Home

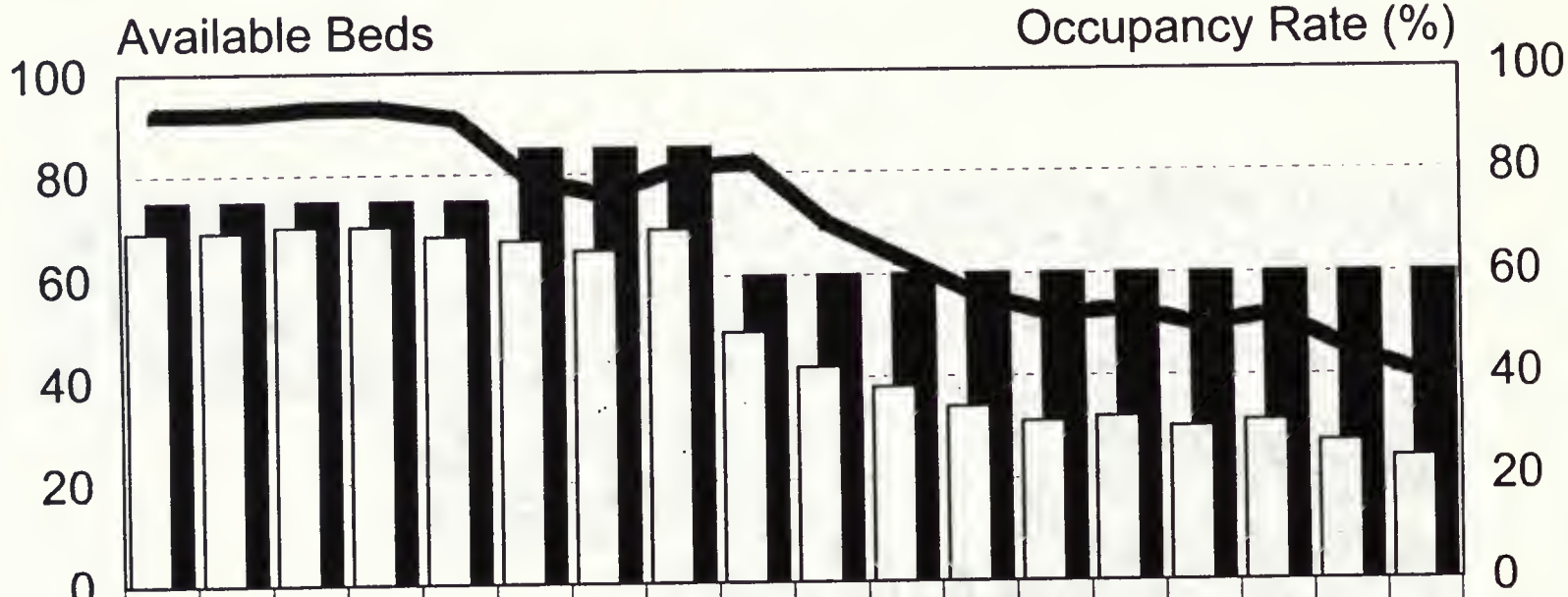
Nursing Home Occupancy Rates



	80					85					90					95		
ADP	38	38	39	39	42	62	60	64	83	86	87	86	85	87	86	87	87	87
Beds	40	40	40	40	46.5	66	66	66	90	90	90	90	90	90	90	90	90	90

Montana Veterans' Home

Domiciliary Occupancy Rates



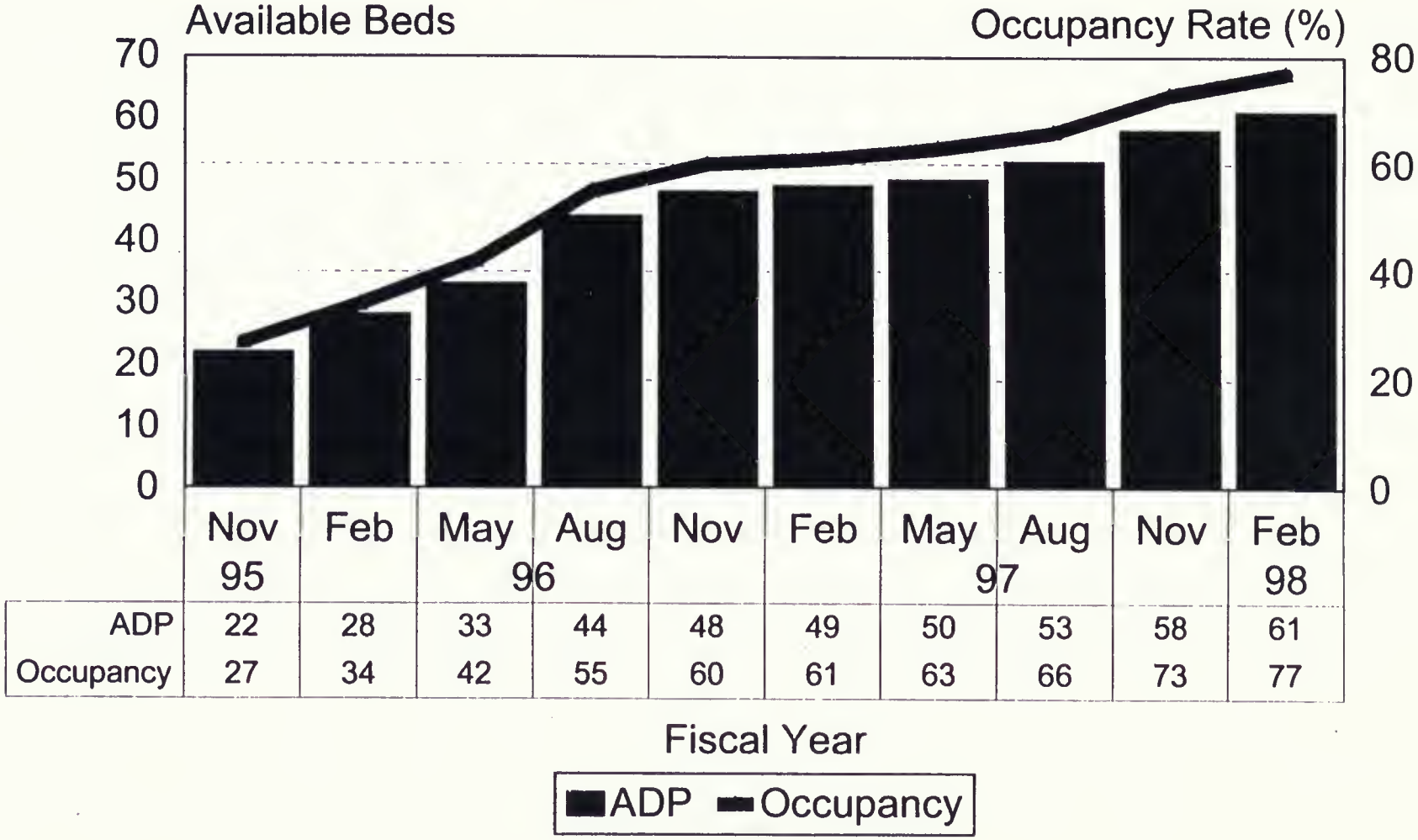
	80					85					90					95		
ADP	69	69	70	70	68	67	65	69	49	42	38	34	31	32	30	31	27	24
Beds	75	75	75	75	75	85	85	85	60	60	60	60	60	60	60	60	60	60
Occupancy	92	92	93	93	91	79	76	81	82	70	63	56	52	53	50	52	45	40

Fiscal Year

ADP Beds Occupancy

Eastern Montana Veterans' Home

Nursing Home Occupancy Rates



	Nov 95	Feb	May	Aug	Nov	Feb	May	Aug	Nov	Feb 98
			96				97			
ADP	22	28	33	44	48	49	50	53	58	61
Occupancy	27	34	42	55	60	61	63	66	73	77

100 copies of this public document were published at an estimated cost of $4.20 per copy, for a total cost of $420.00, which includes $420.00 for printing and $.00 for distribution.